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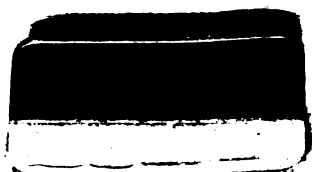
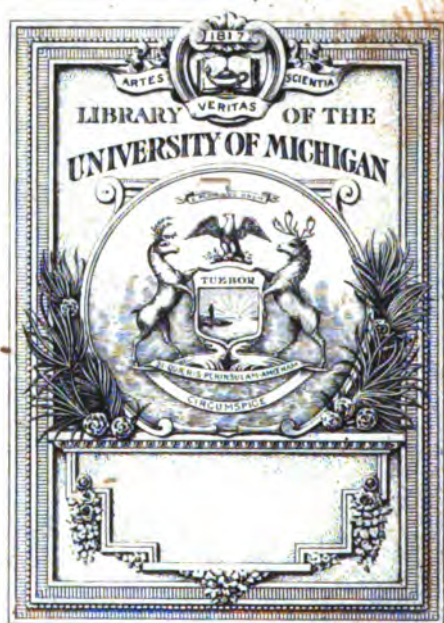
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DOCUMENTS
OF THE
SENATE
OF THE
STATE OF NEW YORK
ONE HUNDRED AND THIRTY-SEVENTH SESSION
1914

VOL. XI.—Nos. 21 to 34, INCLUSIVE



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STATE OF NEW YORK

REPORT

OF

Newtown Battlefield Reservation
Commission

TRANSMITTED TO THE LEGISLATURE FEBRUARY 6, 1914

ALBANY
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1914

STATE OF NEW YORK

No. 21.

IN SENATE

FEBRUARY 6, 1914.

Report of Newtown Battlefield Reservation Commission.

To the Legislature of the State of New York:

Pursuant to section 126, chapter 167, Laws of 1913, the Commissioners of Newtown Battlefield Commission herewith submit the following report of their proceedings for the year ending December 31, 1913, with a detailed statement of their receipts and expenditures for said year:

1913. *Debtor.*

Aug. 23 From State Treasurer \$10,000 00

1913. *Credit.*

Sept. 20	Edw. Hayes	\$21 98
	G. W. Perry Co.	30 00
	F. M. Howell & Co. ...	14 50
	Barker, Rose & Clinton	
	Co.	45 11
	McGreevey, Sleght, De-	
	graff Co.	4 35

1913.

Sept.	20	John Brand	\$33 98
		M. W. Wipfler	5 75
		Fred Jones	15 00
		Florence Sullivan	1 90
Nov.	24	The Argus Company...	18 70
Dec.	22	Francis W. Wickham...	60
		Chemung Canal Tr. Co.	4,398 25

1914.

Jan.	1	Balance on hand.....	5,409 88
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\$10,000 00

Total \$10,000 00

The unexpended balance of appropriations will be sufficient for the purposes of expense and maintenance during the next fiscal year and consequently the Commission do not desire any further appropriation.

NEWTOWN BATTLEFIELD RESERVATION COMMISSION,

By W. H. LOVELL,

President.

RAY TOMPKINS,

Treasurer.

STATE OF NEW YORK } ss.:
COUNTY OF CHEMUNG.

Ray Tompkins, being duly sworn, says that he is the Treasurer of the Newtown Battlefield Reservation Commission, and that the foregoing is a true statement of the receipts and expenditures of Commission for the year ending December 31, 1913

RAY TOMPKINS,

President.

FRANCIS W. WICKHAM,
Notary Public.

STATE OF NEW YORK

No. 22.

IN SENATE

FEBRUARY 10. 1914.

MESSAGE FROM THE GOVERNOR

RELATIVE TO

AGRICULTURE AND THE EXTENSION OF THE AGRICULTURAL FACILITIES OF THE STATE OF NEW YORK

STATE OF NEW YORK — EXECUTIVE CHAMBER,

ALBANY, *February* 10, 1914.

TO THE LEGISLATURE:

There is no proposition better deserving of the earnest and careful attention of the Legislature than the development of the State's agriculture and the extension of its agricultural facilities.

The present condition of agriculture in this State is far from satisfactory. In the last ten years the urban population of New York has increased twenty-five per cent., while the increase in rural population has been less than one per cent.

Where in 1900 New York had 226,720 improved farms, in 1910 it had only 215,557, a decrease of five per cent.; where in 1900 there were 15,600,000 acres of land under cultivation, in 1910 there were but 14,888,000 acres. In other words, so far as agriculture is concerned, New York is not gaining the ground that is to be desired.

Because there has been a decrease in the amount of land under cultivation, New York's food supply has remained practically

stationary, while its population has steadily increased; but in addition to this fact the cost of bringing the farmer's products to the consumer's table is greater than ever before.

For every dollar that the consumer of New York pays for his food the farmer receives but thirty-five cents; sixty-five per cent. of every dollar paid for food represents merely the cost of distribution.

With twentieth century facilities at hand, New York is still in the seventeenth century so far as its system of marketing food is concerned. The farmer is a manufacturer, but he operates at present under a system which would drive any other manufacturer into bankruptcy.

The farmer now is a manufacturer who buys his raw products at retail and sells the finished product at wholesale. Instead of dealing as directly as possible with the man to whom he sells his products he turns them over at wholesale prices to commission merchants and large buyers, or else pays necessarily extravagant freight rates on small shipments of food.

So unscientific is the present system of food distribution that in some cases after the farmer's products have reached the centers of distribution they travel for miles in a roundabout fashion where they should properly go but a stone's throw.

In many cases farmers' products are shipped to some distant center only to return to a neighboring village in a few days.

In this transaction there is always a loss of quality and the extra expense of transportation and profit which the ultimate consumer must pay.

The reason for these disturbing facts is apparent. The farmer at present deals as an individual; because his time is taken up with production he has no time or chance to attend to the numerous phases of distribution. And so long as this is true the middleman is not to blame, because he merely takes conditions as he finds them.

The farmer shipping individually to distant markets necessarily pays the highest rate of transportation and does not get as good service as is accorded carload shipments. His products are handled with greater expense in the city and naturally bring the producer smaller returns than large shipments. By his failure to supply the State markets in a satisfactory fashion, the farmer of New York leaves his principal market open to the products of the world.

The better organized industries of other States and other countries have already succeeded in establishing a regular trade in our own local markets, in many cases for goods which are of inferior quality to the product of the neighboring New York farms.

There is no need for me to call your attention to the importance of finding a suitable remedy for present conditions. The food supply of ten million people is too important to be managed without skill or forethought.

I do not believe there is any pressing need for new legislation in the matter. New York already has upon its statute books laws which, if properly applied, would stop the present waste and mismanagement.

In the Co-operative Marketing Law of last year and the Credit Union Law, the State has the means for enabling the farmer to buy at wholesale and sell at retail. A few farming communities have already taken advantage of these laws and discovered that they met the farmers' problems, but through the State generally, because of indifference and a failure to appreciate what these laws mean, there has been failure to take advantage of them.

This has been the history of agricultural legislation throughout the world. In Ireland, under Sir Horace Plunkett, after a co-operative law had been passed, it took fifty meetings to organize the first co-operative society. As a result the government undertook to send out organizers to form these societies and to educate farmers generally in the purposes and advantages of the co-operative law. To-day there are in Ireland a hundred thousand farmers engaged in various forms of co-operative effort and the total business transactions of these various associations amount annually to some fifteen million dollars.

In France and in Germany those who secured the enactment of co-operative laws discovered that those they sought to benefit were slow in appreciating what this new legislation meant. It was not until the government had undertaken a campaign of education and organization that the co-operative societies were formed which now are the very basis of agricultural progress in Europe.

Massachusetts enacted a Credit Union Law for its farmers in 1909 and in 1911 the following report was submitted by a Committee who had it in charge:

"Your Committee deplores the fact that the provision of Chapter 419 of the Acts of 1909, being 'an act to authorize the co-operation of credit unions,' has not had more general advantage taken of it."

After two years of effort Massachusetts discovered that agricultural legislation without proper organization and education was practically useless.

What New York most needs, therefore, is not legislation but organization. It already has the necessary ground work of laws. It must now make these laws walk.

The farmer either has no time to form co-operative societies himself or he lacks the necessary initiative and must be assisted by capable organizers sent out by the State.

In the few instances where farming communities in New York have organized co-operative societies under the present laws, the results have been most satisfactory.

A co-operative association in the Hudson Valley, incorporated something over a year ago has actually reduced the prices of many farming supplies 100 per cent. It was able to reduce the price of oats for instance, from sixty cents a bushel to thirty-eight cents for its members; it was able to reduce the price of lime and sulphur solution from nine to five dollars a barrel, and it is able, with profit, to market the produce of its members at three per cent. of the gross price.

A co-operative company organized last year in one of our large industrial cities has applied the benefits of the law to the consumer. It has for its directors men who work in the shops of the city during the day and at night are the directors and store clerks in the company's co-operative store. They have been able to make a reduction of 18 per cent. in the price of necessities of their members, and at the same time have paid their stockholders six per cent., the limit permitted in a co-operative company.

The Jewish Agricultural and Industrial Society has established co-operative societies under the present laws and the results have been most satisfactory and beneficial.

From these facts it would appear that further legislation is unnecessary, but that what the State needs is a campaign of organization which will bring to every farming community in the State the benefits which at present only a few have had the forethought to seize.

I therefore recommend that the Legislature appropriate the necessary funds to conduct such a campaign.

The Legislature should secure for the State the services of men who will make it their sole duty to go through the State explaining these co-operative laws and assuming the responsibility for

creating and organizing credit unions and co-operative marketing societies.

These men should make it their business to organize markets and shipping stations under the control of local co-operative marketing associations. One large receiving center in cities and towns of medium size will answer all the purposes of a packing, grading, shipping and marketing station.

Here the produce will be delivered by the neighboring farmer and credited to his account. The goods will then be graded, packed and labeled. Pains will be taken to supply first of all the demands of the local town. The balance can then be shipped in carload lots to the centers of best demand. One central station equipped with cold storage facilities can accommodate the surplus products of several smaller stations.

These various associations throughout the State can organize a selling agency in the city of New York which will keep itself advised on the condition of domestic and foreign markets and be in a position to direct the shipments to centers where the demand is strongest and where the best prices prevail.

From the experience of other states and countries, I am certain that the farmers of New York will respond to any invitation to co-operate which is made in the way I suggest. Furthermore when New York's farmers realize that such a movement is definitely under way, no single community will handicap itself by permitting other communities to enjoy a monopoly of scientific credit and proper marketing facilities. In Minnesota 600 co-operative creameries were organized in ten years, with a total membership of 50,000 farmers. In California more than 20,000 fruit growers are co-operating and a third of the entire fruit business of that State is handled co-operatively.

The Commissioner of Agriculture informs me that at least \$25,000 and not more than \$50,000 would be sufficient to undertake a campaign of organization and education. Compared to the tremendous saving to the producers and consumers of the State which is being sought, the sum is trifling.

The results we desire cannot be achieved in a day. We know, however, that they can be achieved by diligence and earnest effort and we should take the means which experience and reason alike convince us to be the best.

The United States already leads the world in co-operative insurance. There is no reason why it should not strive for similar leadership in co-operative agriculture.

At a further date I shall suggest to the Legislature certain additions to the agricultural and banking laws intended to enable those not already farmers to purchase farm land on long time loans and to assist present farmers to extend their operations. But before we proceed to new laws we should be sure that we are making the best use of the laws we already have.

MARTIN H. GLYNN.

REPORT

OF THE

Commission Appointed to Revise the Practice and Procedure

IN

SURROGATES' COURTS

TRANSMITTED TO THE LEGISLATURE FEBRUARY 9, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914

STATE OF NEW YORK

No. 23

IN SENATE

February 9, 1914

Report of the Commission to Revise the Practice and Procedure in Surrogates' Courts

ALBANY, N. Y., *February 9, 1914*

To the Legislature of the State of New York:

In obedience to chapter 547 of the Laws of 1912 and chapter 37 of the Laws of 1913, we have the honor to present herewith the report of the revision committee of the New York State Surrogates' Association.

NEWTON B. VAN DERZEE,
Chairman.

J. BENNETT SOUTHARD,
WILLIAM S. OSTRANDER,
GEORGE F. ANDREWS,
HERBERT T. KETCHAM,
WALTER E. WOODIN,
GEORGE McCANN,
LOUIS B. HART,
FRANK V. MILLARD.

WILLIS E. HEATON,
Counsel.

GENERAL NOTE

The commission to revise the statutes in relation to practice in Surrogates' Courts derived its existence and authority from chapter 547 of the Laws of 1912. The act provided for the consolidation, codification and revision of laws relating to the estates of deceased persons and the procedure and practice in Surrogates' Courts, under the supervision of the revision committee of the New York State Surrogates' Association, which committee was by said act constituted a commission for such purpose. The undersigned are the commissioners designated by the New York State Surrogates' Association.

The report now presented embraces almost entirely the practice and procedure in Surrogates' Courts now contained in chapter 18 of the Code of Civil Procedure and does not contain any revision of the Decedent Estate Law authorized by the statute which created the commission.

In the work of consolidation, eighty-nine of the four hundred sections in chapter 18 of the Code have been eliminated. Whatever was of service in those sections has been distributed in other sections.

Some of the important changes suggested are as follows:

The jurisdiction of the Surrogates' Court is enlarged, so that a final determination may be made in that court of all matters relating to the affairs of a decedent.

Provision is made for trial by jury of any controverted question of fact in the adjudication of which any party has a constitutional right to such trial. This will prevent the multiplicity of trials which may now be had in probate proceedings and permit the surrogate to determine finally all the issues in respect to the validity of a will.

The need of modernizing the practice of allowing statutory double trials was pointed out by Justice Follett, in delivering the opinion of the court in *Bowen v. Sweeney* (89 Hun, 359, 366-7; *aff'd.*, 154 N. Y. 780).

"It is apparent that under our boasted reform procedure a will relating to realty and personalty may be declared void because of the insanity of the testator, or for any other cause, in respect to one species of property and valid in respect to the other kind of property, upon the ground that the testator

was sane, and so there may be two final adjudications, both supposed to be verities, one affirming a will to be valid and the other affirming it to be void. And in case a will relating to realty and personalty is admitted to probate in the Surrogate's Court, and the decision is reversed by the Supreme Court and the issues are tried before a jury, which are found in favor of the validity of the will, upon which an adjudication is entered by the Surrogate's Court decreeing the will to be valid, the heir may, notwithstanding, retry the question as to the realty, and possibly, as in the case at bar, obtain a verdict and a judgment that the will is invalid. But the remedy for this incongruous and absurd procedure by which judgments diametrically opposed to each other may be recovered in respect to the same will, does not lie with the courts, but with the legislature."

When a testator dies, leaving mortgaged real estate only, his heirs or devisees ought to be able to sell that realty immediately upon the probate of the will. But the possibility that some dissatisfied heir of the family may bring an action under section 2653-a within two years of the probate (and protract the action for several years) acts as a cloud on the alienability of the property by the heirs or devisees at the very time when liquid assets are most necessary to pay the decedent's debts.

The proceeding to sell the real estate of a decedent to pay debts has been very much simplified and made less expensive and cumbersome.

The priority of right to letters of administration has been changed so as to place creditors after the public administrator.

The section containing exemptions for widow and minor children has been modernized by eliminating "spinning-wheels, weaving-loom, knitting machine," etc.

The process and petitions are definitely described and the time in which notices shall be given shortened.

The time in which a representative may account and distribute an estate has been shortened to six months.

The testimony of a subscribing witness to an uncontested will may be taken before the surrogate of any county where the witness may be, or before the clerk of the Surrogate's Court.

Bonds are required of trustees and of executors directed to withhold payments of any fund, unless contrary to the express terms of the will.

The suggestions here presented have been submitted to all the surrogates and many members of the bar of this State for criticisms and suggestions. It has been our effort from the views thus obtained, aided by our own experience, to draft a law in such form as will be satisfactory to the courts, as well as to the profession.

NEWTON B. VAN DERZEE,
Chairman.

J. BENNETT SOUTHARD,
WILLIAM S. OSTRANDER,
GEORGE F. ANDREWS,
HERBERT T. KETCHAM,
WALTER E. WOODIN,
GEORGE McCANN,
LOUIS B. HART,
FRANK V. MILLARD.

WILLIS E. HEATON,
Counsel.

CHAPTER XVIII

SURROGATES' COURTS AND PROCEEDINGS THEREIN

- Title** I. The surrogate and acting surrogate, and their powers and duties. The surrogate's court, its officers and their powers and duties; the surrogate's court and its general jurisdiction.
- II. Special proceedings; pleadings, process and its service; appearance; trial by court or jury; taking and preserving testimony; orders and decrees, their effect and enforcement. Letters, their requisites, effect, issue and revocation. Bonds and undertakings, their requisites, approval, prosecution and discharge. Sureties, their rights and obligations.
- III. Granting letters of administration. Probating and construing wills. Issuing letters testamentary and ancillary letters testamentary and of administration. Appointment and qualification of testamentary trustee. Appointment and qualification of general ancillary and testamentary guardian, and guardian by deed. Annual accounts by such guardians.
- IV. Ascertaining assets and debts. Payment of debts and legacies. Powers and duties of executors and administrators. Mortgage, lease or sale of real property for payment of debts, funeral expenses, expenses of administration, and to satisfy charges thereon, and for distribution.
- V. Accounting and judicial settlement. Effect and contents of decree on judicial settlement. Costs, their amount, allowance and payment. Fees of appraisers, referees, jurors and witnesses. Commissions and allowances. Appeals, how and to what court taken; undertakings and stay of execution. Probate of heirship. Definitions and application of other sections.

TITLE I**THE SURROGATE AND ACTING SURROGATE, AND THEIR
POWERS AND DUTIES; THE SURROGATE'S COURT,
ITS OFFICERS AND THEIR POWERS AND DUTIES;
THE SURROGATE'S COURT AND ITS GENERAL JURIS-
DICTION.**

- Article I. The surrogate and acting surrogate; their powers
 and duties; when disqualified and how office filled.
- II. The officers of the surrogate's court; their appoint-
 ment, powers, duties, salaries and fees.
- III. The surrogate's court and its general jurisdiction.

ARTICLE FIRST

The surrogate and acting surrogate; their powers and duties; when disqualified and how office filled.

§ 2472 [2483]. Surrogate and acting surrogate; their official designations.

Where the county judge is also surrogate, he may be designated, in any paper or proceeding relating to the office of surrogate, as the surrogate of the county, without any addition referring to his office as county judge. A local officer elected, as prescribed in the constitution, to discharge the duties of surrogate, or of county judge and surrogate, is designated in this act, and, when acting as surrogate, may be designated as the "special surrogate" of his county. Where an officer, other than the surrogate, *or special surrogate* acts as surrogate in a case prescribed by law, he must be designated by his official title, with the addition of the words, "and acting surrogate."

NOTE.—No change in this section, except to insert "special surrogate" as being an officer who need not add to his official signature "and acting surrogate."

§ 2473 [2507]. *Seal of the surrogate and surrogate's court.*

The seal of the surrogate of each county shall continue to be the seal of the surrogate's court of that county, and must be used as such by an officer who discharges the duties of the surrogate. A description of each of such seals must be deposited and recorded in the office of the secretary of state, unless it has already been done; and must remain of record.

NOTE.—No change, except in title.

§ 2474 [2495]. Surrogate, when not to be counsel.

A surrogate shall not be counsel, solicitor or attorney in a civil action or special proceeding for or against any executor, administrator, temporary administrator, testamentary trustee, guardian or infant, over whom, or whose estate or accounts, he could have any jurisdiction by law. [The surrogate of the county of Monroe shall not act as referee, or practice as attorney or counselor in any court of record in the state.]

NOTE.—Monroe county has a population of more than 120,000, and therefore under § 20, art. VI, State Constitution, the last sentence is no longer necessary.

§ 2475 [2511]. Surrogate liable for clerk's acts.

A surrogate hereafter elected or appointed, and the sureties [in] on his official bond, are liable for any act of the clerk or deputy clerk of the surrogate's court in the discharge of his official duties, during the surrogate's term of office, as if the act was performed by the surrogate. The surrogate may take security from the clerk or deputy clerk, or either of them, to indemnify him against the liability created by this section.

NOTE.—No change in this section.

§ 2476 [2496]. Surrogate, when disqualified.

In addition to his general disqualifications as a judicial officer, a surrogate is disqualified from acting upon an application for probate of a will, [or for letters testamentary, or letters of administration, in each of the following cases:

1. Where he is, or claims to be, an heir or one of the next of kin to the decedent, or a devisee or legatee of any part of the estate.

2. Where he is a subscribing witness, or is necessarily examined or to be examined as a witness. [to any written or noncupative will.]

[3. Where he is named as executor, trustee, or guardian, in any will, or deed of appointment, involved in the matter.]

A surrogate is also disqualified in any matter in his court where he files a certificate that his relations to the parties or the subject matter are such that it is improper for him to act.

NOTE.—In the 3rd line after “will” insert part of old subdivision 2, making a continuous sentence. Repeal the remainder of the section as the same is covered by the Judiciary Law.

The new matter is added because the relation of the surrogate to persons doing business in his court, and to the subject matter, especially, where he is allowed to practice, is often such that he ought not to be obliged to act.

§ 2477 [2497]. Disqualification; when objection must be taken.

An objection to the power of a surrogate to act, based upon a disqualification, [established by special provision of law, other than one of those enumerated in the last section] is waived by an adult party to a special proceeding [before him] unless it is taken at or before the joinder of issue by that party; or, where an issue [in writing] is not framed at or before the submission of the matter or question to the surrogate.

NOTE.—Change puts all disqualifications that can be waived on the same footing, leaving no useless exceptions to be hunted out.

§ 2478 [2484]. Vacancy or disability; who to act as surrogate.

Where in a county, except New York, the office of surrogate is vacant; or the surrogate is disabled by reason of sickness, absence or lunacy, *or is disqualified in a particular matter*, and special provision is not made by law for the discharge of the duties of his office in that contingency; the duties of his office must be discharged, until the vacancy is filled or the disability ceases, as follows:

1. By the special surrogate.
2. If there is no special surrogate, or he is in like manner disabled, or is precluded or disqualified, by the special county judge.
3. If there is no special county judge, or he is in like manner disabled, or is precluded or disqualified, by the county judge.
4. If there is no county judge, or he is in like manner disabled, or is precluded or disqualified, by the district attorney.

But before an officer is entitled to act as prescribed in this section, proof of his authority to act as prescribed in section [twenty-four hundred and eighty-seven] 2481 of this act must be made. In any proceeding in the surrogate's court of the county of Kings, before either of the officers authorized in this section to discharge the duties of the office of surrogate of such county for the time being, if an issue is joined or a contest arises either on the facts or the law, such officer, in his discretion, may, by order, transfer such cases to the supreme court to be heard and decided at a special term thereof, held in such county, which order shall be recorded in the surrogate's office. A certified copy of such order, together with the appropriate certificate or certificates of the authority of the officer to act as surrogate, shall be sufficient and conclusive evidence of the jurisdiction and authority of the supreme court in such matter or cause. After a final order or decree is made in the matter or cause so transferred to the supreme court, the court shall direct the papers to be returned and filed, and transcripts of all orders and decrees made therein to be recorded in the surrogate's office of such county; and when so filed and recorded, they shall have the same effect as if they were filed and recorded in a case pending in the surrogate's court of such county.

§ 2479 [2485]. If surrogate disqualified, who to act.

Where the surrogate of any county, except New York, is precluded or disqualified from acting with respect to any particular matter, his [jurisdiction and] powers with respect to that matter, *or if he be temporarily absent, his powers with respect to all matters, shall be discharged by* [vest in] the several officers designated in the last section, in the order therein provided. [for] If there is no such officer qualified to act therein, the surrogate may file in his office a certificate, stating that fact; specifying the reason why he is disqualified or precluded; and designating the surrogate of any [adjoining] county, other than New York, to act in his place in the particular matter *or during his absence*. The surrogate so designated has, with respect to that matter, *or generally when the designation is made on account of absence of the surrogate*, all the [jurisdiction and] powers of the surrogate making the designation, and may exercise the same in either county.

NOTE.—The changes in this section with others following are intended to enable the surrogate where he is disqualified in a particular matter or is to be absent, to make a certificate of the fact, and thus obviate application to the supreme court.

§ 2480 [2486]. *Id.*, in New York county.

In the county of New York the supreme court, at a special term thereof, on the presentation of proof of its authority, as prescribed in the next section, must exercise all the powers and jurisdiction of the surrogate's court, as follows:

1. Where the surrogate is precluded or disqualified from acting, with respect to a particular matter, it must exercise all the powers and jurisdiction of that court with respect to that matter.
2. Where the office of surrogate of the county is vacant, or the surrogate is disabled by reason of sickness, absence or lunacy, it must exercise all the powers and jurisdiction of that court, until the vacancy is filled or the disability ceases, as the case may be.

NOTE.—No change in this section.

§ 2481 [2487]. Proof of authority.

The authority of another officer or, in the county of New York, of the supreme court, to act as prescribed in the last three sections, must be proved in one of the following modes:

1. Where the surrogate is disqualified or precluded from acting in a particular matter, that fact may be proved by the surrogate's certificate thereof. *Where the surrogate is temporarily absent, that fact may be proved by the certificate of the surrogate, or of the clerk of the surrogate's court, or of the county clerk.* [or, except as otherwise prescribed in section twenty-four hundred and eighty-five, by affidavit or oral testimony.]*

2. The fact that the surrogate is [so disqualified or precluded, or that he is]† disabled *by reason of sickness, or lunacy*, or that the office is vacant, and also the authority of the officer, or of the court, as the case may be, to act in his place, may be proved and are deemed conclusively established by an order of a justice of the supreme court of the judicial district embracing the county. [After such an order is made, the surrogate shall not make the certificate specified in section twenty-four hundred and eighty-five of this act, and if such a certificate has been theretofore filed, the powers and jurisdiction of the surrogate therein designated as specified in that section, thenceforth cease.]‡

NOTE.— * The certificate shall be the necessary and only requisite. If the surrogate refuses to make it, an appeal lies.

† Where the surrogate is disabled or the office is vacant let the supreme court give direction.

‡ Omit the last sentence.

§ 2482 [2488]. Id.; when and how made.

An order may be made as prescribed in subdivision second of the last section upon or without notice, as a justice of the supreme court of the judicial district embracing the county thinks proper. It must recite the cause of the making thereof, **[it]** and must designate the officer or court empowered to discharge the duties of the office of surrogate. **[and if it relates to a particular matter only, it must designate that matter.]*** It may, in the discretion of the justice, require an officer to give security for the due discharge of the duties therein. Where the office of surrogate is vacant, or the surrogate is disabled by reason of lunacy, the attorney-general, if directed by the governor, must, or the district attorney, upon his own motion, may apply for the order, and a justice of the supreme court of the judicial district embracing the county must grant it upon his application. A justice of the supreme court of the judicial district embracing the county may also grant the order upon the application of a party or a person about to become a party to any special proceeding in the surrogate's court. Where the surrogate is sick **[or absent]**, the granting of the order rests in the discretion of the justice, and its effect may be qualified as the justice thinks proper.

NOTE.— By amending the prior section making the certificate sufficient, this section now applies only in cases of vacancy, sickness or lunacy.

* Omit, as under the new plan the supreme court will not designate where a particular matter only is involved.

§ 2483 [2489]. How authority superseded.

Where an order is made by a justice of the supreme court of the judicial district embracing the county, as prescribed in the last two sections, or an appointment is made [by the board of supervisors,] as prescribed in section [twenty-four hundred and ninety-two] 2484 of this act, for any cause except a vacancy in the office of surrogate, it may be revoked, without prejudice to any proceedings theretofore taken by virtue thereof, by a justice of the supreme court of the judicial district embracing the surrogate's county, upon proof that it was improvidently made, or that the cause of making it has become inoperative. Such an order or appointment, made upon the ground that the surrogate's office is vacant, is superseded without any formal revocation, by the filling of the vacancy. After the order of appointment is revoked, or the vacancy is filled, as the case may be, the unfinished business, in any proceedings taken by virtue of the order or appointment, must be transferred to, and may be completed by, the surrogate, in the same manner and with like effect as where a new surrogate completes the unfinished business of his predecessor.

NOTE.—The use of numerals when sections are referred to will make the member more easily distinguished and read. Reference to "supervisors" omitted here. See next section and note.

§ 2484 [2492]. Temporary surrogate; when board of supervisors may appoint.

In any county, except New York, if the surrogate is disabled by reason of sickness, and there is no special surrogate, or special county judge of the county, the board of supervisors, or *in the counties embraced within the city of New York, the board of aldermen*, may, in its discretion, appoint a suitable person to act as surrogate until the surrogate's disability ceases or until a special surrogate or a special county judge is elected or appointed. A person so appointed must, before entering on the execution of the duties of his office, take and file an oath of office and give an official bond as prescribed by law with respect to a person elected to the office of surrogate.

NOTE.—Change in this and several other places to meet the conditions in Greater New York.

§ 2485 [2493. Id.; compensation]. *Compensation of person acting as surrogate in case of vacancy, disability or disqualification.*

An officer, or a person appointed by the board of supervisors, or board of aldermen, who acts as surrogate of any county during a vacancy in the office, or in consequence of disability, as prescribed in *this title* [the last nine sections] must be paid, for the time during which he so acts, a compensation equal pro rata to the salary of the surrogate; or, in a county where the county judge is also surrogate, to the salary of the county judge. The amount of his compensation must be audited and paid in like manner as the salary of the surrogate, or of the county judge, as the case may be. Where an officer of the county performs the duties of the surrogate with respect to a particular matter wherein the surrogate is disqualified or precluded from acting, the supervisors of the county, or board of aldermen, must allow him a [just compensation for his services therein,] *compensation equal pro rata to the salary of the surrogate* to be audited and collected in the same manner.

NOTE.—The person performing the duties of the surrogate should have the same compensation. This is the practice now.

§ 2486 [2498]. Books to be kept by surrogate.

Each surrogate must provide and keep the following books:

1. A record-book of wills, in which must be recorded, at length, every will required by law to be recorded in his office [with] and the decree admitting it to probate. [and also, if the probate is not contested, the proof taken thereupon.]*

2. A record-book of letters testamentary, [and] letters of administration and letters of guardianship, in which must be recorded all such letters issued out of his court.

3. A record-book in which must be recorded every decree whereby the account of an executor, administrator, testamentary trustee, or guardian is settled.

4. A book containing a minute of every paper filed, or other proceeding taken, relating to the disposition of the real property of a decedent, and a record of every order or decree made thereupon; with a memorandum of every report made, and other proceeding taken, founded upon a decree for such a disposition.

5. A book containing a minute or record of every decree or order, the record of which is not required by this section to be kept elsewhere; together with a memorandum of each execution issued, and of the satisfaction of each decree recorded therein.

6. [A book, in which must be recorded all letters of guardianship, issued out of his court.]+ A book in which must be recorded, upon the application of any person, all instruments acknowledged, or proved, and duly certified, settling estates or accounts or assigning, mortgaging, charging or releasing any interest in any estate or fund.

7. A book known as the Court and Trust Fund Register.

8. A book in which all bonds and undertakings filed in his court must be recorded.

9. A book of fees and disbursements, in which must be entered when required by the board of supervisors by items all fees charged or received by him to the use of the county for services or expenses, and all disbursements made or incurred by him, which are chargeable against those fees, or to the county.

The expense of providing the books [specified in this section] required by law to be kept and used by the surrogate is a county charge, and such books must be open at all reasonable times to the inspection of any person.

NOTE.—Scattered provisions requiring books to be kept put into one section.

*Omit, as recording deposition is wholly unnecessary.

+Omit; now inserted in 2.

As to subd. 6 see (Real Property Law) § 2502; § 32. Personal Property Law; § 274.

Subd. 7 from former § 2509.

Subd. 8 from County Law, § 247.

§ 2487 [2499]. The same]. Books to be indexed; notation on margin as to certain decrees.

To each of the books kept as prescribed in the last section must be attached an alphabetical index referring to the page of the book where each subject may be found. The surrogate may keep two or more books, for a further division of the subjects specified in either subdivision of the last section; in which case he must keep a separate index to each set of books. Each decree [revoking the probate of a will, or] or judgment affecting a will, its probate or construction, or revoking or otherwise affecting letters testamentary, letters of administration, or letters of guardianship, or suspending or removing a testamentary trustee, or modifying or otherwise affecting any other decree, must be plainly noted at the end or in the margin of the record of the will, letters, or original decree, with a reference to the book and page where the subsequent decree is recorded. [The books, kept as prescribed in the last section, appertain to the surrogate's office, and must be open, at all reasonable times, to the inspection of any person.]

NOTE.—Reference to revoking probate in this and several other sections omitted as the surrogate has had no such power in several years.

Last sentence inserted at end of prior section.

§ 2488 [2500]. Papers and books to be preserved and bonds filed.

The surrogate must carefully file and preserve in his office every deposition, affidavit, petition, report, account, voucher, or other paper relating to any proceeding in his court and deliver to his successor all the papers and books kept by him, [All bonds required to be filed with the surrogate or in his office must be proved or acknowledged as deeds are required by law to be proved or acknowledged]* *except that vouchers may be returned to the accounting party after two years, or destroyed after five years from the date of the decree which allowed the payments represented by them.*†

* Omitted because § 810 provides same.

† It has been thought unnecessary to retain vouchers. The decree establishes the payments, and after a reasonable time they can safely be returned or destroyed.

§ 2489 [2503]. What papers to be transmitted to secretary of state or state comptroller; expenses thereof.

A surrogate who admits to probate the will of a person who was not a resident of the state at the time of his death, or grants original or ancillary letters testamentary upon such a will, or original or ancillary letters of administration upon the estate of such a person, must, within ten days thereafter, transmit to the secretary of state, to be filed in his office, a certified copy of the will or letters. [The surrogate's fees for making the copy, and the expenses of transmission, must be audited by the comptroller, and paid out of the treasury upon his warrant.]*

The surrogate must, within ten days after granting letters of administration to a county treasurer, transmit to the state comptroller a certified copy of such letters.

NOTE.—The new matter refers to the duty to grant letters to the county treasurer. See new § 2559.

* Put in section fixing fees. (New § 2500.)

§ 2490 [2481]. Incidental powers of the surrogate.

A surrogate, in [court] or out of court, as the case requires, has power:

1. To issue citations *and other process authorized by law* to parties, in any matter within the jurisdiction of his court; and, in a case prescribed by law, to compel the attendance of a party.

2. To adjourn, from time to time, a hearing or other proceeding in his court; and where all persons who are necessary parties have not been cited or notified, and citation or notice has not been waived by appearance or otherwise, it is his duty, before proceeding further, so to adjourn the same, and to issue a supplemental citation, or require the petitioner to give an additional notice, as may be necessary.

3. To issue, under the seal of the court, a subpoena requiring the attendance of a witness, *or of a person*, residing or being in any part of the state, *for examination as to any matter or subject about which it is necessary or proper for the surrogate to inquire in order that he may properly perform any duty imposed upon him by law*; or a subpoena duces tecum requiring such attendance and the production of a book or paper material to an inquiry pending in the court.

4. To enjoin by order, an executor, administrator, testamentary trustee or guardian, to whom a citation or other process has been duly issued from his court, from acting as such until the further order of the court.

5. To require, by order, an executor, administrator, testamentary trustee, or guardian subject to the jurisdiction of his court, to perform any duty imposed upon him by statute, or by the surrogate's court, under authority of a statute.

6. To open, vacate, modify, or set aside, or to enter as of a former time, a decree or order of his court; or to grant a new trial or a new hearing for fraud, newly discovered evidence, clerical error, or other sufficient cause. The powers conferred by this subdivision must be exercised only in a like case, and in the same manner, as a court of record and of general jurisdiction exercises the same powers. [Upon an appeal from a determination of the surrogate, made upon an application pursuant to this subdivision, the general term of the supreme court has the same power as the surrogate; and his determination must be reviewed, as if an original application was made to that term.]*

NOTE.— * Power of court on appeal inserted in new § 2763.

7. To punish any person for a contempt of his court, civil or criminal, in any case where it is expressly prescribed by law that a court of record may punish a person for a similar contempt, and in like manner.

8. Subject to the provisions of law relating to the disqualification of a judge in certain cases, to complete any unfinished business pending before his predecessor in the office, including proofs, accountings and examinations.

9. To complete and certify and sign in his own name, adding to his signature the date of so doing, all records or papers left uncompleted or unsigned by any of his predecessors.

10. To exemplify and certify transcripts of all records of his court, or other papers remaining therein.

11. With respect to any matter not expressly provided for in the foregoing subdivisions of this section, to proceed, in all matters subject to the cognizance of his court, according to the course and practice of a court having by the common law jurisdiction of such matters, except as otherwise prescribed by statute; and to exercise such incidental powers as are necessary to carry into effect the powers expressly conferred.

12. A surrogate [or a clerk of the surrogate's court]† has power to administer oaths, to take affidavits and the proof and acknowledgment of deeds and all other instruments in writing, and certify the same with the same force and effect as if taken and certified by a county judge; *and in any proceeding of which he has jurisdiction, he may administer oaths, take affidavits, testimony and depositions, and certify the same at any place within the state of New York, with the same force and effect as if taken in his county.*

NOTE.—New matter in last subdivision added so that the plan of allowing surrogates to take depositions on proof of will out of the county may be carried out.

New matter in subd. 3 inserted so that authority to examine persons repeated in many sections may be eliminated.

† Reference to clerk put in. New § 2503.

ARTICLE SECOND

The officers of the surrogate's court; their appointment, powers, duties, salaries and fees.

§ 2491. Clerk and deputy clerk of surrogate's court, and clerks in surrogate's office; appointment; salary.

By a written order filed and recorded in his office, which he may in like manner revoke at pleasure, a surrogate may appoint a clerk of the surrogate's court, and in any county containing a city of the second class, and in the counties of Monroe and Erie the surrogate may also appoint a deputy clerk of said court. [Both said clerk and deputy clerk shall be paid by the county, and the board of supervisors or board of aldermen, as the case requires, must fix the compensation of the clerk and deputy clerk so appointed.]

Each surrogate may appoint, and at pleasure remove, as many other clerks for his office, to be paid by the county, as the board of supervisors of his county, or in the city [and county] of New York the board of aldermen, authorize him so to appoint.

The board of supervisors or, in the counties embraced within the city of New York, the board of aldermen, as the case requires, must fix the compensation of the clerk or clerks [so] appointed under this section; and may authorize them, or either of them, to receive, for their or his own use, any legal fees permitted to be charged by law [for making copies of any record or paper in the office of the surrogate]. A surrogate may appoint, and at pleasure remove, as many additional clerks to be paid by him as he thinks proper.*

NOTE.—Provisions regarding appointment of clerks in sections twenty-five hundred and eight and twenty-five hundred and nine consolidated.

* From § 2508. Chap. 775, L. 1911, supersedes § 2508 in its application to the surrogates of New York county.

§ 2492 [2509-a]. Chief clerk of surrogate's court of Kings county; compensation of clerks and officers.

The surrogate of the county of Kings may appoint a chief clerk of the court and office of such surrogate, who shall hold office for five years unless sooner removed by the surrogate for cause, after trial, upon charges duly served upon him and an opportunity to be heard and defend. Whenever a vacancy exists for any cause in such office, the surrogate shall appoint a person to fill such office for the full term of five years. Such chief clerk shall, before entering upon the performance of his duties, take the constitutional oath of office and shall file the same with the county clerk of Kings county, together with a bond in the sum of ten thousand dollars, with sureties approved by the surrogate, conditioned for the faithful performance of his duties as such chief clerk. Such chief clerk shall perform such duties as now pertain to the office of chief clerk and clerk of the surrogate's court in such county, and such other duties as the surrogate may from time to time by rule of the court or otherwise impose upon him. The compensation of such chief clerk and of the other clerks and officers of the court and office of such surrogate shall, notwithstanding any other provision of law, be fixed by the said surrogate, and the same shall be a county charge. The compensation of the chief clerk shall not be decreased during his term of office.

NOTE.—No change made in this section. Conditions are so much different in the very large counties that there seems to be a necessity of giving those counties some special laws.

§ 2493. Clerk to keep court and trust fund register.

[7. The clerk of the surrogate's court, of each of the counties of this state shall immediately upon the filing in the office of the surrogate of any decree or order of such court] *Whenever there shall be filed in the office of the surrogate any decree or order of the surrogate or of the surrogate's court directing the deposit of money, either actually in the hands of some person or persons or thereafter arising from the sale of real estate described in any such decree or order, with the county treasurer of his county, or [in the case of the county of New York,] with the chamberlain of the city of New York, or upon the filing in the said surrogate's office of any treasurer's or chamberlain's receipt stating that a sum of money has been deposited with such treasurer or chamberlain, in accordance with a decree or order of any such surrogate's court, the clerk of the surrogate's court shall enter in [a book to be kept in his office for that purpose, to be known as a] the court and trust fund register, the title of the proceeding, or the name of the estate in which such decree or order was made, together with a statement of the amount so deposited, or ordered to be deposited, if said decree or order contains the amount of same, and the name of the person or persons, if any, to whom said money is ordered to be paid, and the date of the filing of the same or of such receipt as herein mentioned.*

NOTE.— This part of § 2509 being a duty and not a power is taken out of that section and made a new one, and re-written.

§ 2494. Appointment of court officers and attendants.

The surrogate of Kings county may appoint, and at pleasure remove, all attendants, [and] messengers[,] and court officers in his court, who must attend, from day to day, the terms and sittings of the court to preserve order, and to perform whatever services may be required of him by the surrogate. [The surrogate of Erie county may appoint, and at pleasure remove, one court officer to attend his court and to perform such duties in respect thereto as the said surrogate may prescribe. Such officer shall possess all the powers of officers designated by sheriffs to attend upon such courts, and shall receive a salary to be fixed by said surrogate not to exceed one thousand two hundred dollars a year, to be paid in equal monthly payments by the treasurer of the county of Erie.]

The surrogate of Erie county may appoint, and at pleasure remove, as many attendants, messengers and court officers in his court, to be paid by the county, as the board of supervisors authorize him so to appoint. The court officer or officers so appointed shall possess all the powers of officers designated by sheriffs to attend upon courts, and shall perform whatever services may be required by the surrogate.

The surrogate of any other county may appoint, and at pleasure remove, one or more court officers to attend his court and to perform such duties in respect thereto as the said surrogate may prescribe, who shall be paid by the county treasurer upon the certificate of the surrogate, a sum not to exceed three dollars per day for the days actually spent by him in attendance upon a session of the surrogate's court. Such officers shall also have all the powers of officers designated by sheriffs to attend upon courts of record.

NOTE.—There appears to be a need for some officer in surrogate's court in the nature of an attendant to preserve order, look after books and papers, and in some counties to look after fires and lights and to open and close the room.

The first part of the section is taken from former § 2512.

§ 2495 [2513-a]. Interpreters in surrogate's court of Kings county.

The surrogate of Kings county must from time to time appoint and may at pleasure remove an interpreter to be attached to the surrogate's court of said county. Such interpreter shall receive a salary of eighteen hundred dollars per annum to be paid by the comptroller of the city of New York, in monthly instalments, and shall, before entering upon his duties, file in the office of the clerk of the county of Kings the constitutional oath of office in which there shall also be incorporated[,] language to the effect that he will fully and correctly interpret and translate each question propounded through him to a witness and each answer thereto in said courts. The compensation for the above interpreter to be taken out of the amount appropriated for the support of the said surrogate's court, or from any other contingent city fund.

NOTE.—No change in this section. It was formerly § 2513a.

§ 2496 [2512]. Stenographer for surrogates' courts in New York, Kings, [and] Erie, Albany, Westchester and Queens counties.

The surrogate of each of the counties of New York, Kings, Queens, [and] Erie, Albany and Westchester must appoint, and may, for cause, remove, a stenographer for his court[, who is entitled to a salary fixed by law, and to be paid as the salaries of clerks in the surrogate's office are paid].

In the counties of New York and Kings such stenographers shall receive a salary fixed by law, to be paid as the salaries of clerks in the surrogate's office are paid.

In the counties [county] of Erie, Albany, Westchester and Queens the salary of said stenographer shall be fixed by the board of supervisors, or by the board of estimate and apportionment, as the case may be, and the payment of such salary shall be provided for by such board in the same manner as other county [expenses] salaries are paid.

NOTE.—Remainder of section 2512 put into new § 2494. Westchester, Albany and Queens counties added. Former § 2512 covered two matters, stenographers and attendants. These have been separated. New §§ 2494, 2496.

§ 2497 [2513]. *Id.*; in other counties.

The surrogate of each county, except New York, Kings, *Albany*, *Westchester*, Hamilton, Queens, Richmond, and Erie may, in his discretion, appoint, and at pleasure remove, a stenographer for his court, who, except in Sullivan county, shall receive a salary to be fixed by such surrogate, not exceeding in counties having a population less than thirty thousand, eight hundred dollars per annum; in counties having a population of thirty thousand and not more than fifty thousand, not exceeding one thousand dollars per annum, and in counties having a population exceeding fifty thousand, not exceeding twelve hundred dollars per annum, except that in counties in which are located cities of the second class, or in counties in which are located three cities of the third class, such salary shall not exceed eighteen hundred dollars per annum; and in any county wholly containing a city of the first class, such salaries shall not exceed two thousand dollars per annum. The population of the several counties shall be determined by the last preceding census. If a regular stenographer is appointed in Sullivan county, his salary shall be five hundred dollars per annum. The board of supervisors shall provide for the payment of such salary in the same manner as other county [expenses] salaries are paid. [Such stenographer shall deliver to the surrogate of the county a full copy of all the minutes taken by him* and on receipt of his fees, not exceeding three cents per folio, a like copy to the party, or each of the parties, to the proceeding in which the minutes were taken, except that in the counties of Onondaga and Monroe such fees shall not exceed six cents per folio.]† When not actually engaged in the discharge of his duties as stenographer, he shall perform such clerical duties in connection with the surrogate's court as the surrogate directs. In counties wherein the surrogate is also county judge, the stenographer so appointed shall be the stenographer of the county court, and shall perform the duties pertaining to a stenographer of the county court without additional compensation. In counties where, for any cause, a regular stenographer for his court has not been appointed, as provided by this section, the surrogate may, in individual proceedings requiring the services of a stenographer, appoint a stenographer who shall be paid a reasonable compensation, certified by the surrogate in every case in which he takes notes of testimony, from the estate or matter in which such services are rendered.

When the regular stenographer appointed is sick, absent, on his vacation, or unable to act for other good cause, the surrogate may designate a stenographer to act temporarily in his place, who shall be paid by the county a reasonable compensation certified by the surrogate.

NOTE.—The last sentence is added because there has been no provision for procuring a stenographer during the vacation or sickness of the regular stenographer.

* Included in § 2498.

† Put under separate section. (New § 2502.)

§ 2498 [2541]. Duty of stenographer.

The stenographer of a surrogate's court must, under the direction of the surrogate, take full stenographic notes of all proceedings, in which oral proofs are given, except where the surrogate otherwise directs. The testimony must be legibly written out at length by him, from his notes *when required by the surrogate*; and the minutes thereof, as so written out, must, after being authenticated, as prescribed in the next section, be filed in the surrogate's office, *and in all cases his stenographic books must be so filed and remain in the surrogate's office five years.*

NOTE.—The surrogate may use his discretion about requiring all notes to be written out, but the note books must be kept for reference.

§ 2499 [2542]. How minutes of testimony authenticated and bound.

The minutes of testimony written out as prescribed in the last section, or taken by the surrogate, or under his direction, while the witness is testifying, must, before being filed, be authenticated by the signature of the stenographer, referee, the surrogate or the clerk of the surrogate's court, as the case may be, to the effect that they are correct.

[§ 2543. Id.; to be bound in volumes.]

[In the city and county of New York, in the county of Kings, and in any other county where the supervisors so direct, t]The minutes of testimony written out by the stenographer must be bound, at the expense of the county, in volumes of convenient size and shape, indorsed "Stenographic minutes," and numbered consecutively. [Upon the record of a decree made in any contested matter, the surrogate must cause to be made a minute, referring to each volume of the stenographic minutes, and to the pages thereof, containing any testimony relating to the matter.]

NOTE.—Sections 2542 and 2543 consolidated. Requirement for making minute on decree eliminated as serving no useful purpose.

§ 2500. Fees for copying or recording papers.

The clerk of the surrogate's court may charge and receive to the use of the county the following fees, except that where the board of supervisors or board of aldermen have allowed him to receive fees for his own use the same may be received and retained by said clerk:

1. For furnishing a transcript of a decree to be filed in the county clerk's office, fifty cents.

2. For making a copy of the proceedings and evidence in any matter, six cents per folio.

3. For recording agreements settling estates or accounts, releases, assignments, or mortgages of, or liens upon, any interest in an estate or fund; wills probated in another county or state, and the papers required to be recorded therewith, ten cents for each folio.

4. For a certificate, other than a certificate that a paper, for the copying of which he is entitled to a fee, is a copy, twenty-five cents.

5. For making and certifying a copy of a will or paper on file or recorded in such office, ten cents for each folio.

6. For comparing and certifying that a paper is a copy of a paper on file, twenty-five cents and five cents for each folio; and for comparing and certifying a case on appeal where printed copies thereof are presented by any party to any proceeding, one cent for each folio.

7. For recording the official bond or undertaking of an executor, administrator, guardian or trustee, ten cents a folio, except that where the clerk receives a salary as full compensation for his services no fee shall be charged for such recording.

The clerk must, if required by resolution of the board of supervisors, keep an account of all such fees and shall make report thereof whenever requested by such board.

On the appointment of a guardian, if it appears that the application is made for the purpose of enabling the minor to receive bounty, arrears or pay or prize money, or pension due, or other dues or gratuity from the federal or state government, for the serv-

ices of the parents or brother of such minor in the military or naval service of the United States, no fees shall be charged or received.

NOTE.—The many provisions for charging fees scattered through this chapter combined in one section.

Subdiv'n 1. See former § 2553.

2. Usual fee, 10 cents per folio changed to six.

3. See former § 2502.

4. No fee heretofore fixed.

5. See former §§ 2503, 2567.

6. See former § 2567.

7. See county law § 247.

Last paragraph from former § 2501.

[§ 2501. When fees not to be charged; report of fees.]

[If the inventory of personal property of a testator or intestate, filed in the office of the surrogate, does not exceed the sum of one thousand dollars, no fees for any services done or performed by the surrogate shall be charged to or received from the executor or administrator. If the petition for letters testamentary or of administration shall allege that in the belief of the petitioner the inventory will not exceed such amount, no fees shall be received until it appears from the inventory when filed that the personal property does not exceed that sum.* On the appointment of a guardian, if it appears that the application is made for the purpose of enabling the minor to receive bounty, arrears or pay or prize money, or pension due, or other dues or gratuity from the federal or state government, for the services of the parents or brother of such minor in the military or naval service of the United States, no fees shall be charged or received.† The surrogate of each county, except New York, at his own expense, must make a report to the board of supervisors of the county, on the first day of each annual meeting thereof, containing a verified statement of all fees received or charged by him for services or expenses since the last report, and of all disbursements chargeable against the same, or to the county, stating particularly each item thereof.‡

* Omit, as this affects hardly any fee, and also because such an estate may have a large holding of real estate.

† Inserted in new § 2500.

‡ This seems to require report of the personal fees of the surrogate under § 2567, and not the fees received for use of the county. Put into new section 2500. There was no provision for the report by the clerk. Report provided for in new section 2500.

§ 2501. Fees of stenographer acting or taking testimony in surrogate's court.

A stenographer, appointed or acting pursuant to sections 2497 and 2498 of this act, may charge and receive a sum not exceeding six cents per folio for furnishing a copy of the minutes, proceedings and testimony taken in surrogate's court to any person who applies for the same.

NOTE.—This is to make the fee the same in all counties.
Taken from former section 2513.

§ 2502. Expenses of surrogate or clerk.

Where, upon the application of any party, the surrogate, or the clerk of the surrogate's court, goes to a place other than the surrogate's office, or the court room where surrogate's court is regularly held, in order to take testimony, he shall be paid his actual and necessary expenses.

NOTE.—Taken from former § 2567. Provision is now made for a surrogate or his clerk to take depositions in another county, and this provides for payment of his actual expenses.

§ 2503 [2509]. Clerk of surrogate's court; deputy clerk of surrogate's court; [how appointed;] their powers.

[By a written order filed and recorded in his office, which he may in like manner revoke at pleasure, a surrogate may appoint a clerk of the surrogate's court, and in any county containing a city of the second class and in the county of Monroe, the surrogate may also appoint a deputy clerk of said court. Both said clerk and deputy clerk shall be paid by the county, and the board of supervisors or board of aldermen, as the case requires, must fix the compensation of the clerk and deputy clerk so appointed.]* The clerk and deputy clerk *of the surrogate's court* [so appointed] may severally exercise, concurrently with the surrogate, the following powers of the surrogate:

1. He may certify and sign as clerk of the court, or as deputy clerk of the court, as the case may be, any of the records of the court, [including the certificate specified in section twenty-six hundred and twenty-nine of this act,] and the records and papers specified in subdivision nine of section [twenty-four hundred and eighty-one] 2490 of this act.

2. He may issue any *citation, subpoena or other* mandate to which a party is entitled as of course, either unconditionally or on the filing of any paper; and may sign, as clerk of the court, or as deputy clerk of the court, as the case may be, and affix the seal of the court to any letters or mandate issued from the court.

3. He may certify in the manner prescribed by chapter ninth of this act, a copy of any paper, required or permitted by law to be filed or recorded in the surrogate's office.

4. He may adjourn to a definite time, not exceeding thirty days, any matter, when the surrogate is absent from his office, or unable, by reason of other engagements, to attend to the same.

5. [He may take the acknowledgment or proof of any instrument, to be used or filed in the court of which he is clerk, or deputy clerk. Said deputy clerk shall also act as confidential clerk to the surrogate.] *He may administer oaths, take affidavits and the proof and acknowledgment of deeds and all other instruments in writing and certify the same with the same force and effect as if taken and certified by the county judge; and in any proceeding of which the court has jurisdiction, he may administer oaths, take affidavits, testimony and depositions, and certify the same at any place within the state of New York, with the same force and effect as if taken in his county.*

6. The clerk of the surrogate's court of each of the counties of Kings, *Queens* and New York may, with the approval of the surrogate or surrogates of his county, authorize or depute one or more of the other clerks, employed in the surrogate's office of his county, to sign his name, and exercise such of the other powers conferred upon him by this section, as he shall designate. The surrogate may prohibit the clerk and deputy clerk, or either of them, from exercising any powers specified in this [section] *subdivision*, but the prohibition does not affect the validity of any act of the clerk or deputy clerk done in disregard of the prohibition.

7. The clerk or deputy clerk or other person employed in any capacity in a surrogate's office, shall not act as appraiser, as attorney or counsel or as referee, or special guardian, in any matter before the surrogate.

[7. The clerk of the surrogate's court, of each of the counties of this state shall immediately upon the filing in the office of the surrogate of any decree or order of such court directing the deposit of money, either actually in the hands of some person or persons or thereafter arising from the sale of real estate described in any such decree or order, with the county treasurer of his county, or in the case of the county of New York, with the chamberlain of the city of New York, or upon the filing in the said surrogate's office of any treasurer's or chamberlain's receipt stating that a sum of money has been deposited with such treasurer or chamberlain, in accordance with a decree or order of any such surrogate's court, enter in a book to be kept in his office for that purpose, to be known as a court and trust fund register, the title of the proceeding, or the name of the estate in which such decree or order was made, together with a statement of the amount so deposited, or ordered to be deposited, if said decree or order contains the amount of same, and the name of the person or persons, if any, to whom said money is ordered to be paid, and the date of the filing of the same or of such receipt as herein mentioned.]

[§ 2510. Additional powers of clerks of surrogates' courts.]

8. The clerk of the surrogate's court, and in the county of Kings two other clerks[.] and in the county of Queens one other clerk. to be designated by the surrogate, in addition to the powers above enumerated [in section twenty-five hundred and nine,] may exercise, concurrently with the surrogate of the county, the power

to take the proof of a will, unless demand be made for an oral examination or cross examination of the subscribing witnesses, or objections to such probate are pending. [following powers of the surrogate: On the return of a citation issued from such surrogate's court on a petition for the probate of a will, where no objection to the same is filed, or, where all the persons entitled to be cited, sign and verify the petition, or personally, or by attorney, appear on the probate thereof, cause the witnesses to the will to be examined before him. Such examination must be reduced to writing and for such purpose, they are hereby authorized to administer and certify oaths and affirmations in such cases in the same manner and with the same effect as if administered and certified by the surrogate.]†

NOTE:

* Put under new § 2491.

† Authority given by new matter above.

Subd. 7. Marked for repeal has been made new § 2493 because it is not in the nature of a power but of a duty.

Power to take deposition where probate is not contested definitely given in the new matter inserted. Section 2510 consolidated with § 2509.

Part of subd. 1 repealed is already contained in former § 2629.

ARTICLE THIRD

The surrogate's court and its general jurisdiction.

§ 2504. Surrogate's court; when to be open; times and places of holding court.

The surrogate's court is always open for the transaction of any business within its powers and jurisdiction.

The surrogate may, from time to time, appoint, and may alter, the times and places of holding said court for the transaction of any business which may come before it. The surrogate may sign orders, decrees, letters testamentary, of administration and of guardianship, and approve bonds wherever he may be at any time.

NOTE.—Parts of §§ 2504, 2505 combined and rewritten. § 2505 to be repealed. The remainder of § 2504 goes into a section by itself (new § 2506). The useless provisions of § 2505 relating to holding court on Monday and filing notice of vacations are omitted. The right ought to be given to affix official signature any time at any place in the state.

§ 2505 [2506]. When and where court held by county judge. Proceedings where county judge is also surrogate.

The surrogate's court, in a county where the county judge is also surrogate, may be held at the time and place at which the county court is held; and the jury in attendance may constitute the jury for the trial of any issue arising in the surrogate's court. [and, in that case, the order of business of the county court, the court of sessions and the surrogate's court, is under the direction of the county judge.]

NOTE.—The new matter provides for the jury in cases where the surrogate is county judge and desires to hold the trial at a term of the county court. Where the surrogate is not county judge, or being such does not desire to hold the trial at a term of the county court, see new §§ 2538, 2542.

§ 2506 [2504]. Terms of surrogates' courts in New York county and powers of surrogates.

[The surrogate's court is always open for the transaction of any business, within its powers and jurisdiction.]* The surrogates of the [city and] county of New York, from time to time must appoint and may alter the times of holding terms of that court for the trial of probate proceedings and for the hearing of motions and other chamber business. They must prescribe the duration of such terms, and assign the surrogate to preside and attend at the terms so appointed. In case of the inability of a surrogate of that county to preside or attend, the other surrogate may preside or attend in his place. Two or more terms of the surrogate's court may be appointed to be held at the same time. The term of that court held at the chambers shall dispose of all business except contested probate proceedings; all contested probate proceedings shall be disposed of at the trial term. An appointment must be published in two newspapers published in the city of New York during or before the first week in January in each year[; except that the surrogates of that county may, by notice to be published in two newspapers in the city of New York for at least five days, appoint the time for holding chambers and trial terms during the year eighteen hundred and ninety-three]. All the powers conferred by law upon the surrogate of the [city and] county of New York may be exercised by either of the surrogates of the said [city and] county[; and]. There shall be published in the official law paper published in said county, upon Monday of every week, under the name of the surrogate making the several appointments, a full and true list of the names of all appraisers, transfer tax appraisers, special guardians, referees and temporary administrators, which either surrogate shall have designated or appointed during the preceding week together with the names of the proceedings in which they were appointed and the dates of said appointments.

NOTE.—No change made in this section except to transfer first two lines to new § 2504, and omit some useless words.

§ 2507 [2490]. Proceedings in [New York and Kings counties] supreme court regulated.

In a special proceeding cognizable before a surrogate, taken in the supreme court, as prescribed in *section 2480* of this [article,] *chapter*, the seal of the court in which it is taken, must be used, where a seal is necessary. The special proceeding must be entitled in that court; and the papers therein must be filed or recorded, as the case may be, and issues therein must be tried, as in an action brought in that court. The clerk of that court must sign each record, which is required to be signed by the surrogate or the clerk of the surrogate's court. The issuing of a citation may be directed, and any order intermediate the citation and the decree may be made by a judge of the court.

NOTE.—No change in this section.

§ 2508 [2491]. Id.; transfer of proceedings to surrogate's court.

The court may, at any time, in its discretion, upon being satisfied that the reason for the exercise of its powers and jurisdiction has ceased to operate, make an order to transfer to the surrogate's court[,] any matter then pending before it. Such an order operates to transfer the same accordingly. Immediately after such a transfer, or after the revocation of the order of the [general term,] *justice of the supreme court* as prescribed in [the last] section [but one] 2483, the surrogate must cause entries to be made in the proper book in his office[,] referring to all the papers filed, and orders entered, or other proceedings taken[,] in the supreme court; and he may cause copies of any of the orders or papers to be made, and recorded or filed in his office, at the expense of the county.

NOTE.—No change except to omit reference to general term.

§ 2509 [2494]. *Proceedings, etc., of acting surrogates, [Id.; acts, etc.,] where and how recorded.*

Where an act is done, or a proceeding is taken by, before, or by authority of, an officer, or a person appointed by the board of supervisors, *or by the board of aldermen*, temporarily acting as surrogate of any county[,], as prescribed in this [article,] *chapter*, the same must be recorded, or the proper minutes thereof must be entered, in the books of the surrogate's court, in like manner as if the same was done or taken by, before, or by authority of the surrogate of the county; and the officer or person so acting, or the clerk of the surrogate's court, must sign the certificate of probate and any letters so issued, and must certify the record thereof in the book.

NOTE.—No change except to bring in reference to board of aldermen.

§ 2510 [2472]. General jurisdiction of surrogate's court.

Each surrogate must hold, within his county, a court, which has, in addition to the powers conferred upon it, or upon the surrogate, by special provision of law, jurisdiction, as follows:

[6.] To administer justice in all matters relating to the affairs of decedents, *and upon the return of any process to [according to the provisions of the statutes relating thereto.] try and determine all questions, legal or equitable, arising between any or all of the parties to any proceeding, or between any party and any other person having any claim or interest therein who voluntarily appears in such proceeding, or is brought in by supplemental citation, as to any and all matters necessary to be determined in order to make a full, equitable and complete disposition of the matter by such order or decree as justice requires.*

[This jurisdiction must be exercised in the cases and in the manner prescribed by statute.]

And in the cases and in the manner prescribed by statute:

1. To take the proof of wills; to admit wills to probate; **[to revoke the probate thereof;]** and to take and revoke probate of heirship.

2. To grant and revoke letters testamentary and letters of administration, and to appoint a successor in place of a person whose letters have been revoked.

3. To direct and control the conduct, and settle the accounts, of executors, administrators, and testamentary trustees; to remove testamentary trustees, and to appoint a successor in place of a testamentary trustee. **[so removed.]**

4. To enforce the payment of debts and legacies; the distribution of the estates of decedents; and the payment or delivery, by executors, administrators, and testamentary trustees, of money or other property in their possession, belonging to the estate.

5. To direct the disposition of real property, and interests in real property of decedents, **[for the payment of their debts and funeral expenses,]** and the disposition of the proceeds thereof.

6 **[7.]** To appoint and remove guardians for infants; to compel the payment and delivery by them of money or other property belonging to their wards; **[and, in cases specially prescribed by law,]** to direct and control their conduct, and settle their accounts.

7 **[8.]** To settle the accounts of a father, mother or other relative having the rights, powers and duties of a guardian in socage, and to compel the payment and delivery of money or other property belonging to the ward.

8. To determine the validity, construction or effect of any disposition of property contained in any will proved in his court, whenever a special proceeding is brought for that purpose, or whenever it is necessary to make such determination as to any will in a proceeding pending before him, or whenever any party to a proceeding for the probate of any will, who is interested thereunder, demands such determination in such proceeding.

NOTE.— Subd. 1. Reference to revoking probate omitted as that proceeding has been repealed several years, but reference to it has never been taken out of the code.

Former subd. 6. Inserted in first part of section as general jurisdiction.

First part of section covers § 2472-a and is intended to enlarge jurisdiction so that every question arising may be tried.

Heretofore there has been no definite jurisdiction to construe wills, except where necessary to the determination of a pending issue. Therefore, it was necessary to resort to a supreme court action. Now such a proceeding may be instituted in surrogate's court. See new § 2587.

[§ 2472-a. Idem.]

The surrogate's court has also jurisdiction upon a judicial accounting or a proceeding for the payment of a legacy to ascertain the title to any legacy or distributive share, to set off a debt against the same and for that purpose ascertain whether the debt exists, to affect the accounting party with a constructive trust, and to exercise all other power, legal or equitable, necessary to the complete disposition of the matter. He must order the trial of any controverted question of fact of which either party has constitutional right of trial by jury and seasonably demands the same.]

NOTE.— In place of this section substitute first part of new § 2510.

§ 2511. Jurisdiction of persons; when and how obtained.

The surrogate's court, in any proceeding before it, shall have jurisdiction of the following described persons:

1. The petitioner.

2. Parties who have been duly cited, including all those described as being persons belonging to a class, or connected with the decedent, or as interested in the property or matter in question, whether designated by their full and correct names or not.

3. Persons of full age who have not been judicially declared to be incompetent to manage their affairs,

a. Who shall, either before or after the filing of the petition, waive the issue or service, or both, of the citation by an instrument in writing signed, acknowledged, or proved and duly certified.

b. Who, whether named in the petition or citation or not, shall appear personally in court and file written signed notice of appearance acknowledged, or proved, and duly certified.

c. Who, whether named in the petition or citation or not, shall appear by attorney whose authority in writing to appear, so signed, acknowledged, or proved, and duly certified, shall be filed.

NOTE.—This section is rewritten from § 2528, and embodies provisions found in other sections concerning obtaining jurisdiction of the person.

By making this general section we fix jurisdiction of the person and avoid much repetition in other sections.

Subd. c. Most surrogates now refuse to allow an attorney to appear for a person not cited without written authority. Any other practice would be dangerous, especially in the cities.

[§ 2474. Jurisdiction not lost by defect in record.]

[The surrogate's court obtains jurisdiction in every case by the existence of the jurisdictional facts prescribed by statute, and by the citation or appearance of the necessary parties. An objection to a decree or other determination, founded upon an omission therein, or in the papers upon which it was founded, of the recital or proof of any fact necessary to jurisdiction, which actually existed, or the failure to take any intermediate proceeding, required by law to be taken, is available only upon appeal. But, for the better protection of any party or other person interested, the surrogate's court may, in its discretion, allow such a defect to be supplied by amendment.]

NOTE.—As this section is drawn it would seem that the court had no jurisdiction to make a decree at all unless all necessary parties were cited. Repeal and substitute new section following.

§ 2512. Jurisdiction of subject matter; objection to defect in record.

The surrogate's court obtains jurisdiction in every case to make a decree or other determination by the existence of the jurisdictional facts prescribed by statute. When the decree or other determination fails to recite the existence or proof of a jurisdictional fact, and such fact actually existed; or when any party has failed to take any intermediate proceeding required by law to be taken, an objection to such decree or determination based thereon is available only upon appeal, and the surrogate's court may, in its discretion, allow such a defect to be supplied by amendment.

NOTE.— Former section 2474 rewritten. See note to that section.

§ 2513 [2473]. Presumption of jurisdiction.

Where the jurisdiction of a surrogate's court to make, [in a case specified in the last two sections,] a decree or other determination, is drawn in question collaterally, [and the necessary parties were duly cited or appeared,] the jurisdiction is presumptively, and, in the absence of fraud or collusion, conclusively, established, by an allegation of the jurisdictional facts, contained in a written petition or answer, duly verified, used in the surrogate's court. The fact that *jurisdiction of the parties was obtained* [were duly cited] is presumptively proved, by a recital to that effect in the decree.

NOTE.— This section made more definite and inclusive.

§ 2514 [2475]. Effect of exercise of jurisdiction.

Jurisdiction, once duly exercised over any matter, by a surrogate's court, excludes the subsequent exercise of jurisdiction by another surrogate's court, over the same matter, and all its incidents, except as otherwise specially prescribed by law. Where a guardian has been duly appointed by, or letters testamentary or of administration have been duly issued from, or any other special proceeding has been duly commenced in, a surrogate's court having jurisdiction, all further proceedings to be taken in a surrogate's court, with respect to the same estate or matter, must be taken in the same court.

NOTE.—No change in this section.

§ 2515 [2476]. Exclusive jurisdiction.

The surrogate's court of each county has jurisdiction, exclusive of every other surrogate's court, to take the proof of a will, and to grant letters testamentary thereupon, or to grant letters of administration, as the case requires, in either of the following cases:

1. Where the decedent was, at the time of his death, a resident of that county, whether his death happened there or elsewhere.

2. Where the decedent, not being a resident of the state, died within that county, leaving personal property within the state, or leaving personal property which has, since his death, come into the state, and remains unadministered.

3. Where the decedent, not being a resident of the state, died without the state, leaving personal property within that county, and no other; or leaving personal property which has since his death, come into that county, and no other, and remains unadministered.

4. Where the decedent was not, at the time of his death, a resident of the state, and a petition for probate of his will, or for a grant of letters of administration, under subdivision second or third of this section, has not been filed in any surrogate's court; but real property of the decedent, to which the will relates, or which is subject to disposition under title [fifth] fourth of this chapter, is situated within that county, and no other.

NOTE.—No change in this section.

§ 2516 [2477]. Concurrent jurisdiction of two or more surrogates.

Where personal property of the decedent is within, or comes into, two or more counties, under the circumstances specified in subdivision third of the last section; or real property of the decedent is situated in two or more counties, under the circumstances specified in subdivision fourth of the last section; the surrogates' courts of those counties have concurrent jurisdiction, exclusive of every other surrogate's court, to take the proof of the will and grant letters testamentary thereupon, or to grant letters of administration, as the case requires. But where a petition for probate of a will, or for letters of administration, has been duly filed in either of the courts so possessing concurrent jurisdiction, the jurisdiction of that court excludes that of the other.

NOTE.—No change in this section.

§ 2517 [2478]. Jurisdiction, how affected by locality of debts.

For the purpose of conferring jurisdiction upon a surrogate's court, a debt, owing to a decedent by a resident of the state, is regarded as personal property situated within the county where the debtor, or either of two or more joint debtors, resides; and a debt owing to him by a domestic corporation is regarded as personal property situated within the county where the principal office of the corporation is situated. But the foregoing provision does not apply to a debt evidenced by a bond, promissory note, or other instrument for the payment of money only, in terms negotiable, or payable to the bearer or holder. Such a debt, whether the debtor is a resident or a non-resident of the state, or a foreign or a domestic government, state, county, public officer, association, or corporation, is, for the purpose of so conferring jurisdiction, regarded as personal property at the place where the bond, note or other instrument is, either within or without the state.

NOTE.—No change in this section.

[§ 2479. Jurisdiction in new or altered county.]

Where a new county has been heretofore, or is hereafter erected, or territory has been heretofore, or is hereafter, transferred from one county to another, the jurisdiction of the surrogate's court of each of the counties affected thereby, to take the proof of a will, or to grant letters, depends upon the locality, when the petition is presented, of the place, where the property of the decedent is situated, or where the event occurred, as the case may be, which determines jurisdiction. If, before the erection of the new county, or the transfer of the territory, letters have been granted, upon the ground that the decedent died or resided within the county, the surrogate's court, from which they were issued, has exclusive jurisdiction of the estate, and of all matters incidental thereto; and if the place where the decedent died or resided is embraced within another county, certified copies of any papers or proceedings, filed, entered, or recorded in the surrogate's court thereof, must be furnished on the payment of the fees therefor, by the proper officer, to any person interested in the estate; and, upon the latter's request and payment of the fees therefor, the proper officer of the court so having jurisdiction must file, enter, or record the same, in like manner and with like effect as the originals. Where the letters were granted upon any ground other than the decedent's death or residence within the county, the jurisdiction of the court from which they were issued, remains unaffected by any change in the territorial limits of its county.】

NOTE.—This and following section taken out, as being so seldom applicable as to be useless in Code.

[§ 2480. Id.; transfer of proceedings to proper county.]

A special proceeding pending in a surrogate's court, whose jurisdiction to entertain the same is taken away by the provisions of the last section, or in consequence of the erection of a new county, or the alteration of the territorial limits of a county, after this act takes effect, must be transferred, by order of the court in which it is pending, to the surrogate's court having jurisdiction; and the latter court has the same jurisdiction, power and authority with respect thereto, which the former court would have had, if the territorial limits of its county had not been changed.】

NOTE.—See former § 2479 on prior page. An act creating or altering a county would naturally provide for the matters contained in this and the preceding section.

TITLE II

SPECIAL PROCEEDINGS, PLEADINGS, PROCESS AND ITS SERVICE; APPEARANCE; TRIAL BY COURT OR JURY; TAKING AND PRESERVING TESTIMONY; ORDERS AND DECREES, THEIR EFFECT AND ENFORCEMENT; LETTERS, THEIR REQUISITES, EFFECT, ISSUE AND REVOCATION; BONDS, THEIR REQUISITES, APPROVAL. PROSECUTION AND DISCHARGE; SURETIES, THEIR RIGHTS AND OBLIGATIONS.

Article I. Special proceedings, how begun; pleadings and process; service of citation and other process, and proof thereof.

II. Appearance, appointment of special guardian; consolidation of proceedings. Reference, trial, decision, exceptions and testimony. Orders and decrees, effect and enforcement; docketing, discharging and staying.

III. Letters, their requisites, priority and authority; how, when and to whom granted; revocation. Removal of trustee.

IV. Bonds and undertakings, approval, recording, prosecution and discharge: sureties, their release, rights and obligations.

ARTICLE FIRST

Special proceedings, how begun; pleadings and process; service of citation and other process, and proof thereof.

§ 2518 [2517]. *Proceeding commenced by petition; statute of limitations.*

Every proceeding in surrogate's court shall be commenced by the filing of a petition. In any case where the time in which to begin such proceeding is limited, a citation on such petition must, within sixty days thereafter, be issued and [The presentation of a petition is deemed the commencement of a special proceeding, within the meaning of any provision of this act, which limits the time for the commencement thereof. But in order to entitle the petitioner to the benefit of this section, a citation issued upon the presentation of the petition, must, within sixty days thereafter,] be served, as prescribed in *this chapter* [section twenty-five hundred and twenty of this act,] upon the adverse party, or upon one of two or more adverse parties, who are jointly liable, or otherwise united in interest; or, within the same time, the first publication thereof must be made pursuant to an order made as prescribed in *this chapter* [section twenty-five hundred and twenty-two of this act].

NOTE.—Repeal § 2516. Under that section it was a question whether a proceeding without citation was ever commenced. Necessary part of § 2516 embodied above.

[§ 2516.]

[Except in a case where it is otherwise specially prescribed by law, a special proceeding in a surrogate's court must be commenced by the service of a citation, issued upon the presentation of a petition. But upon the presentation of the petition, the court acquires jurisdiction to do any act which may be done before actual service of the citation.]

NOTE.—Repeal. Amended section 2518 includes this.

§ 2519 [2533]. Written pleadings [may be] required.

[The surrogate may, at any time, require a party to file a written petition or answer, containing] *All petitions, answers, and objections shall contain a plain and concise statement of the facts constituting [his] the claim, objection or defence, and a demand for [of] the decree, order, or other relief, to which [he] the party supposes himself to be entitled, and shall be duly verified.* The surrogate may require [the petition or answer to be verified and] *that a copy thereof [to] be served upon any [other] person interested in such manner as he may direct.* A party who fails to comply with such requirement may be treated as a party in default. [Except where such a requirement is made, or in a case where a written petition is expressly required by this act, a petition, or the answer thereto, may be presented orally; in which case, the substance thereof must be entered in the records of the courts.]

NOTE.—For a history of oral and written pleadings in surrogate's court. see *Matter of Work*, 76 Misc. 403.

The change requires all pleadings to be in writing and verified. This makes a more definite and orderly procedure. Under this section "written" and "duly verified" which occurs in many sections are eliminated. This section was a relic of the time when the surrogate's court was not a court of record.

§ 2520 [2534]. Verification thereof.

The provisions of sections [five hundred and twenty-three] 523, [five hundred and twenty-four] 524, [five hundred and twenty-five] 525 and [five hundred and twenty-six] 526 of this act apply to a verification made pursuant to this chapter, and to the petition or other paper so verified, where they can be so applied in substance, without regard to the form of the proceeding.

NOTE.—Change to numerals makes the numbers more easily read.

§ 2521. General contents of petition.

A petition must substantially set forth:

1. *The title of the proceeding, the name and residence of the person to whose estate or fund the proceeding relates, and the name and residence of the petitioner.*

2. *The facts upon which the jurisdiction of the court depends to entertain the application and grant the relief asked for.*

3. *So far as they can be ascertained with due diligence, the names and post-office addresses of all the persons interested in the proceeding who are required to be cited upon the application, or concerning whom the court is required to have information; and if the name or post-office address of any of such persons is unknown, the facts which show what effort has been made to ascertain the same.*

4. *That there are no other persons than those mentioned interested in the application or proceeding.*

5. *A request for the relief or action of the court to which the petitioner deems himself entitled.*

Before any process shall be issued on a petition the petitioner may be required to show by his petition or otherwise the following matters:

If any of such persons is an infant there shall be set forth:

a. *His age, and whether or not he has a general or testamentary guardian.*

b. *Whether or not his father, or if he be dead, his mother is living, giving the name and post-office address of such person.*

c. *The person with whom such infant resides and his post-office address.*

If any of such persons is an adjudged, or an alleged, incompetent there shall be set forth:

a. *The name and post-office address of the committee, if any, and the name and post-office address of the person or institution having the care or custody of such incompetent.*

b. *The facts regarding his incompetency, and the name and post-office address of a relative or friend having an interest in his welfare.*

If any of such persons be included in a class, and his name is unknown there shall be set forth:

The names and post-office addresses of those persons of the class who are known, and a general description of all other persons belonging to such class, showing their connection with the decedent or fund and their interest in the property or matter in question.

If any of such persons be unknown or his name be unknown there shall be set forth:

A general description of such person showing his connection with the decedent or fund, and his interest in the property or matter in question.

NOTE.—This general section has been drawn to put into one section the general requirements of a petition which are repeated in many sections. It will be noticed that only the first 5 are jurisdictional. The remainder of the sections shows what should be in a petition to enable the surrogate to act intelligently.

§ 2522. Process; how executed and returnable.

The process of the surrogate's court shall be a citation to show cause, an order to show cause, and such other process and mandate as the surrogate is or shall be authorized by law to issue and employ in the performance of the duties imposed on him and in the enforcing of his orders and decrees.

[§ 2515. Process; how executed and returnable.]

A citation or other mandate of a surrogate's court must, except where it is otherwise specially prescribed by law, be made returnable before the surrogate's court from [whose court] which it was issued, and may be served or executed in any county. A warrant of attachment must be directed to the sheriff of the surrogate's county[;], who may execute it in any county, and must convey the person arrested to the place where it is returnable.

NOTE.—There has been no section specifying the "process" in surrogate's court.

It is intended to do away with citation "to attend" which causes many people useless expense, and substitute citation "to show cause."

[§ 2518. Persons constituting a class; when to be cited; citation when some are unknown.]

Where it is prescribed, in any provision of this chapter, that a petition must pray that a person, or that creditors, next of kin, legatees, heirs, devisees, or other persons constituting a class, may be cited for any purpose, all those persons are necessary parties to the special proceeding.]* [Where persons to be cited constitute a class, the petitioner must set forth, in an affidavit, the name of each of them, unless the name, or part of the name of one or more of them cannot after diligent inquiry, be ascertained by him; in which case that fact must be set forth and he may also allege that there may be others whose existence is unknown to him; and the surrogate must thereupon inquire into the matter.]*† [For the purpose of the inquiry, he may, in his discretion, issue a subpoena, requiring any person to attend before him to testify respecting the matter.]*‡ [If he is satisfied, of the reasonable diligence and good faith of the petitioner the citation may be directed to the persons, whose names are unascertained and also to all other persons belonging to such classes, by a general description, showing their connection with the decedent, or interest in the property or matter in question; or other sufficient identification.]*§ [A citation thus directed has the same force and effect as if it was directed to the persons intended, by their names, and where the persons so intended are duly cited, in any manner prescribed by law, the decree binds them, as if they were named in the citation. A petition, duly verified, is deemed an affidavit, within the meaning of this section.]*||

NOTE.— This section distributed as follows:

* Omitted as unnecessary.

† Inserted in new §§ 2524, 2529.

‡ Inserted in new § 2490.

§ Inserted in new § 2524.

|| Inserted in new § 2511 and section on "decree." (New § 2550.) Last sentence covered by Code, § 3343.

[§ 2519. Contents of citation.

A citation must be made returnable upon a day certain, designated therein, not more than four months after the date thereof; and must specify whose estate or what subject-matter is in question. The names of all the persons to be cited, as far as can be ascertained, must be contained in the citation. Where the name, or part of the name, of either of them cannot be ascertained, that fact must be stated in the citation.]

NOTE.—See two following new sections. In this and other places only partial contents of citations are mentioned. By making the new sections much repetition can be avoided. This section rewritten in new section 2523.

§ 2523. General contents of citation.

A citation must substantially set forth:

1. *The name and residence of the petitioner, and of the person to whose estate or fund the proceeding relates.*
2. *The names of all the persons to be cited who have not waived its issue and service, or have not appeared, so far as the same can be ascertained.*
3. *The time and place when the citation is returnable, which time must not be more than four months after the date thereof.*
4. *The object of the proceeding in regard to which the persons cited are required to show cause.*
5. *The date when the citation issues.*
6. *It must be attested in the name of the surrogate, and by the seal of his court.*

NOTE.—This and the following section make general provisions for contents of citation. In such separate proceeding reference is then made only to any special provision that must be in the citation for that proceeding.

§ 2524. General contents of citation; persons constituting a class; persons unknown or whose names or parts of names are unknown.

In addition to the requirements of the last section, a citation must substantially set forth:

1. *Where the names of some persons to be cited comprising a class are unknown, the names of those persons of the class who are known, and a general description of all other persons belonging to such class, showing their connection with the decedent and their interest in the property or matter in question.*

2. *Where the persons to be cited are unknown, a general description of such persons showing their connection with the decedent and their interest in the property or matter in question.*

In either of said cases where the petitioner is ignorant of the name of a person to be cited, he may designate that person in the citation by a fictitious name or by so much of his name as is known, adding a description identifying the person intended.

3. *In every case where it appears that there is no heir-at-law or next of kin, as the case may be; or that it is not known whether or not there be such; or when all of the parties interested are non-resident aliens, the citation shall be issued to the attorney-general of the state.*

NOTE.—Following Code, section 451. No. 3 is to eliminate repetition in many places.

Contains part of former § 2518.

§ 2525. Citation; how served within state.

Personal service of a citation within the state shall be made as follows:

Upon an adult person, or upon an infant of the age of fourteen years or upwards, by delivering a copy thereof to the person to be served.

Upon an infant under the age of fourteen years, by delivering a copy thereof to the infant in person, and to his father, mother or guardian; or if there is none within the state, or if the infant does not reside with a parent, to the person having the care and control of him, or with whom he resides, or in whose service he is employed.

Upon a person judicially declared to be incompetent to manage his affairs by reason of lunacy, idiocy, or habitual drunkenness, or upon a corporation by delivering a copy thereof in the manner prescribed for personal service of a summons upon such a person, or upon a corporation in article first of title first of chapter fifth of this act.

Where it appears, by affidavit, to the satisfaction of the surrogate from whose court a citation is issued, that proper and diligent effort has been made to serve it as hereinbefore prescribed in this section upon a resident of the state whose place of residence or place of business is known and that the person to be served cannot be found at his residence or place of business, and cannot be elsewhere served within the state within a reasonable time, or, if found, that he evades service, so that it cannot be made; the surrogate may make an order directing that service thereof be made, as prescribed in section 436 of this act; and the provisions of that section and of section 437 of this act, relating to the service of a summons, apply to the service of a citation, pursuant to an order made as prescribed in this section.

Where it is necessary in any special proceeding to cite known creditors, and it appears that the number of creditors or persons claiming to be creditors, residing within the state of New York, upon whom citation is required to be served, exceeds fifty, service thereof may be made upon them by publication thereof in such newspaper or newspapers and for such a length of time as shall be fixed by the surrogate, and by the mailing of a copy of such citation to each of them by deposit of a copy thereof in the post-office, properly enclosed in a postpaid sealed wrapper addressed

to each of them at his last known post-office address as stated in the order, at least twenty days prior to the return day thereof.

NOTE.—This section combines §§ 2520, 2521 and 2526 and provides either personal or substituted service on all residents who can be found or who have a residence or place of business so that personal or substituted service can be made. It also adds the amendment of 1913 concerning substituted service of resident creditors. This leaves to be served by publication non-residents, residents who cannot be found, and those who have no residence or place of business, and persons unknown, provision for which is made in the next section.

The amendment of 1913 to § 426 is not adopted as to service on infants, as the committee believe it not the best manner of service for use in surrogate's court.

[§ 2521. Substitute for personal service upon a resident.

Where it appears, by affidavit, to the satisfaction of the surrogate from whose court a citation issued, that proper and diligent effort has been made to serve it upon a resident of the State, as prescribed in the last section; and that the person to be served cannot be found, or, if found, that he evades service, so that it cannot be made; the surrogate may make an order, directing, that service thereof be made, as prescribed in section four hundred and thirty-six of this act; and the provisions of that section and of section four hundred and thirty-seven of this act, relating to the service of a summons, apply to the service of a citation, pursuant to an order made as prescribed in this section.]

NOTE.—This section rewritten into new § 2525.

§ 2526. Service personally without the state, or by publication; when ordered.

The surrogate from whose court a citation is issued may make an order directing the service thereof personally without the state, or by publication, in either of the following cases:

1. *Where it is to be served upon a foreign corporation, or upon a person who is not a resident of the state.*
2. *Where the person to be served is a resident of the state, and substituted service upon him cannot be authorized as provided in section 2525 of this chapter.*
3. *Where it is to be served upon a party whose name, or residence, cannot be ascertained.*
4. *Where it is to be served upon one or more unknown creditors, next of kin, heirs, legatees or other persons, either individually or included in a class, to whom a citation has been directed, designating them by a general description, as prescribed in this chapter.*

Note.— We omit subdivisions 2, 3 and 4 of the original section 2522 which referred to residents, as those classes were fairly included in provision for substituted service, and by the amendment are made clearly so. Subd. 2 includes in this section all residents who cannot be served under the prior section. Subds. 3 and 4 include persons unknown whether residents or non-residents.

[§ 2522. Service by publication.

The surrogate from whose court a citation is issued may make an order directing the service thereof without the state, or by publication, in either of the following cases:

1. Where it is to be served upon a foreign corporation, or upon a person who is not a resident of the state.

2. Where the person to be served, being a resident of the state, has departed therefrom, with intent to defraud his creditors, or to avoid the service of process.

3. Where the person to be served, whether an adult or an infant, is a resident of the state but is temporarily absent therefrom.

4. Where the person to be served is a resident of the state, or a domestic corporation, and an attempt was made to serve a citation, issued from the same surrogate's court, upon the presentation of the same petition, before the expiration of the limitation applicable to the enforcement of the claim set forth in the petition, as fixed in chapter fourth of this act; and the limitation would have expired, within sixty days next preceding the application for the order, if the time had not been extended by the attempt to serve the citation.】

NOTE.— Rewritten. See new § 2526.

[§ 2523. Id.; upon persons unknown, etc.

The surrogate may also make an order, directing the service of a citation without the state, or by publication, in either of the following cases:

1. Upon a party to whom a citation is directed, either by his full name or part of his name, where the surrogate is satisfied, by affidavit, that the residence of that party cannot, after diligent inquiry, be ascertained by the petitioner.

2. Upon one or more unknown creditors, next of kin, legatees, heirs, devisees, or other persons included in a class, to whom a citation has been directed, designating them by a general description, as prescribed in this article.】

NOTE.— Combined with new § 2526.

§ 2527. Application for order permitting service by publication or personally without the state.

Application for an order permitting service of a citation by publication or personally without the state of New York must be made upon the petition or upon an affidavit, which must set forth to the satisfaction of the surrogate the facts which show that the case is one of those specified in section 2526 and that the petitioner has used due diligence to ascertain the names and post-office addresses of the parties whose names or post-office addresses are unknown.

§ 2528. Order, when and how made; contents thereof.

When an order, directing the service of a citation personally without the state, or by publication, is made, if the order authorizes service by publication, it must direct that the citation be served upon the persons named or described in the order, by publication of the citation in two newspapers, therein designated, unless from the petition or affidavit filed it appears that the estate or fund amounts to less than five thousand dollars, in which case only one newspaper shall be designated, for such specified time as the surrogate deems reasonable, not less than once in each of four successive weeks and by mailing a copy of such citation as provided in section twenty-five hundred and twenty-nine of this chapter; except that the order may dispense with such mailing to persons whose names or addresses are alleged in the petition or affidavit to be unknown.

If the order authorizes personal service without the state of New York, it must direct that service be made upon the parties named therein in the manner prescribed in section twenty-five hundred and twenty-nine of this chapter.

The order may authorize both modes of service at the option of the petitioner, or may direct that service be made by either mode without embodying the other. The granting of an order for service by publication, or personally without the state, shall not prevent the personal service of such citation within the state.

NOTE.—This will enable the surrogate to make an order for either mode of service, which right has been doubted under the old section. It omits the recitation of manner of service, as the manner of service is prescribed in new section 2529, thus greatly shortening the order, which was always long. The last sentence settles the disputed question whether after the granting

**the order personal service could be made within the state.*

[§ 2524. Order, when and how made; contents thereof.

Where an order, directing the service of a citation without the state or by publication, is made, as prescribed in either of the last two sections, the party applying therefor must produce proof, by affidavit or otherwise to the satisfaction of the surrogate, that the case is one of those specified in those sections. The order must direct that service of the citation, upon the person named or described in the order, be made by publication of the citation in two newspapers, designated as prescribed in this article, unless from the petition it appears that the estate amounts to less than two thousand dollars, in which case only one newspaper shall be designated, for a specified time, which the surrogate deems reasonable, not less than once in each of six successive weeks; or, at the option of the petitioner, by delivering a copy of the citation, without the state, to each person so named or described, in person, and if the person to be served is an infant under the age of fourteen years, also to the person with whom he is sojourning or, if the service is made upon a corporation, to an officer thereof specified in section four hundred and thirty-one or four hundred and thirty-two of this act. It must also contain either a direction that on or before the day of the first publication, the petitioner deposit, in a specified post-office, a copy of the citation and of the order, contained in a securely closed post paid wrapper, directed to the person to be served, at a place specified in the order, and if the person to be served is an infant under the age of fourteen years, a further copy, likewise contained in a securely closed post paid wrapper, directed to the person with whom such infant is sojourning or, a statement that the surrogate, being satisfied, by the affidavit upon which the order was granted, that the petitioner cannot, with reasonable diligence, ascertain a place or places where the person to be served would probably receive matter transmitted through the post-office, dispenses with the deposit of any papers therein.]

NOTE.—Rewritten into new §§ 2529, 2530.

[§ 2525. What time required for delivery of copy, et cetera.

Where service is made by delivering a copy of the citation without the state, pursuant to an order made as prescribed in the last section, it must be made, if within the United States, at least thirty days, if without the United States, at least forty days, before the return day of the citation. Proof of publication, deposit, or delivery may be made as prescribed in section four hundred and forty-four of this act.]

NOTE.—Rewritten into new § 2529. Last sentence put into new § 2531.

§ 2529. When service of citation shall be made; manner of service without the state or by publication.

Any person over eighteen years of age, although a party to the special proceeding, may serve a citation.

Service of a citation upon a resident of the state, or upon a non-resident within the state, must be made, if within the county of the surrogate, or in an adjoining county, at least eight days before the return day thereof; and if in any other county of the state, at least ten days before the return day thereof.

Service of a citation personally without the state of New York, pursuant to an order therefor, must be made in the same manner as is required by this chapter for the personal service of a citation within the state, by delivering a copy of such citation, if within the United States at least twenty days, and if without the United States at least thirty days before the return day thereof.

Service of citation by publication must be made by publication of the citation as prescribed in such order, and by the deposit, on or before the day of the first publication, in a specified post-office, of a copy of the citation, contained in a securely closed postpaid wrapper, directed to the person to be served, at a place specified in the order; and if the person to be served is an infant under the age of fourteen years, a further copy, likewise contained in a securely closed postpaid wrapper directed to the father, or the mother, or the guardian, and the person with whom such infant is sojourning; unless by the terms of the order mailing is dispensed with.

NOTE.—Combines §§ 2520, 2525, 2526. This section taken with § 2525 makes complete provision as to service of citation.

[§ 2526. Service upon a corporation, infant, lunatic, et cetera.

Service of a citation must be made upon an infant under the age of fourteen years, a person judicially declared to be incompetent to manage his affairs by reason of lunacy, idiocy, or habitual drunkenness, or a corporation, in the manner prescribed for personal service of a summons upon such a person, or upon a corporation, in article first of title first of chapter fifth of this act.]

NOTE.—Rewritten into new § 2525.

§ 2530 [2527]. Id.; upon infant, et cetera; additional requirement in certain cases.

Where a person cited, or to be cited, is an infant, [of the age of fourteen years or upwards,] or where the surrogate has, in his opinion, reasonable grounds to believe, that a person cited, or to be cited, is an habitual drunkard, or for any cause mentally incapable adequately to protect his rights, although not judicially declared to be incompetent to manage his affairs, the surrogate may, in his discretion, with or without an application therefor, and in the interest of that person, make an order requiring that a copy of the citation be delivered, in behalf of that person, to a person designated in the order and that service of the citation shall not be deemed complete until such delivery. [Where the person, cited or to be cited, is an infant under the age of fourteen years, or a person judicially declared to be incompetent to manage his affairs, by reason of lunacy, idiocy, or habitual drunkenness, and the surrogate has reasonable ground to believe that the interest of the person, to whom a copy of the citation was delivered, in behalf of the infant or incompetent person, is adverse to that of the infant or incompetent person, or that, for any reason, he is not a fit person to protect the latter's rights, the surrogate may likewise make such an order; and as a part thereof, or by a separate order, made in like manner at any stage of the proceedings, he may appoint a special guardian ad litem to conduct the proceedings in behalf of the incompetent person, to the exclusion of the committee, and with the same powers, and subject to the same liabilities, as a committee of the property.]

NOTE.—Provisions as to appointment of special guardian all embodied in former § 2530, new § 2534. The last part omitted seems to presuppose that the person to whom a citation is delivered has some right to appear.

§ 2531 [2532]. Proof of service of citation, subpoena, et cetera.

Proof of service of a citation, or a subpoena, issued from a surrogate's court, must be made in the manner prescribed by law, for proof of service of a summons issued out of the supreme court. In every other case, proof of service must be made by affidavit; or, where the person served is of full age and not incompetent, by a written admission signed by him, accompanied with proof, by *acknowledgment*, affidavit or otherwise, of the genuineness of his signature.

Proof of publication and deposit in a post-office, may be made as prescribed in section four hundred and forty-four of this act.

NOTE.— Last sentence from former section 2525.

§ 2532 [2535]. Publication of citation, et cetera.

Where a provision of this chapter, or an order made pursuant to such a provision, directs the publication of a citation, notice, or other paper, or the service thereof by publication, the publication must be made in a newspaper published in the county. The surrogate may, also, in his discretion, direct the publication thereof in any other newspaper published in the same or another county, as he deems proper, for the purpose of giving notice to the persons intended to be served or notified. If no newspaper is published in the county, the citation, notice or other paper, must be published in the newspaper printed at Albany, in which legal notices are required by law to be published.

NOTE.— No change in this section.

ARTICLE SECOND

Appearance; appointment of special guardian; consolidation of proceedings. Reference, trial, decision, exceptions and testimony. Orders and decrees, effect and enforcement; docking, discharging and staying.

§ 2533 [2528]. *Appearances; how made and effect thereof.*

In a surrogate's court, a party of full age may, unless he has been judicially declared to be incompetent to manage his affairs, *appear and* prosecute or defend a special proceeding in person, or by attorney regularly admitted to practice in the courts of record, at his election, except in a proceeding to punish him for contempt, or where he is required to appear in person, by special provision of law, or by a special order of the surrogate. *An appearance must be evidenced by a notice of appearance signed by the party or by his attorney and filed in the surrogate's court; and where no citation has been served on the person appearing, such notice must be acknowledged or proved, and duly certified.* [The issue and service of a citation may be waived either before or after the filing of the petition in such proceeding by a party in any proceeding by an instrument in writing, acknowledged or approved as a deed entitled to be recorded, or by personal appearance or by his attorney with written authorization executed and acknowledged as a deed and filed in the office of the surrogate.]* [The appearance of a party against whom a citation has been issued, has the same effect as the appearance of a defendant in an action brought in the supreme court.]*†

NOTE.—* Put into a general section about waiving. New § 2511.

† Omit, as now it restricts to person against whom citation has been issued.

Notice of appearance should be signed to avoid claim by parties who were in court and said nothing, that they appeared and were entitled to notice of appeal or other proceedings. Appearance or default ought to be definite and not subject to dispute as to correctness of the minutes.

§ 2534 [2530]. Special guardian; when to be appointed.

Where a party, who is an infant, does not appear by his general guardian; or where a party, who is a lunatic, idiot, or habitual drunkard, does not appear by his committee; *or where any party who is an infant or an habitual drunkard, or who for any cause is mentally incapable adequately to protect his rights, although not judicially declared to be incompetent to manage his affairs; or where any party is unknown,* the surrogate must appoint a competent and responsible person, to appear as special guardian for that party. Where an infant appears by his general guardian, or where a lunatic, idiot, or habitual drunkard, appears by his committee, the surrogate must inquire into the facts, and must, in like manner, appoint a special guardian, if there is any ground to suppose that the interest of the general guardian or committee is adverse to that of the infant, or incompetent person; or that for any other reason, the interests of the latter require the appointment of a special guardian. A person cannot be appointed such a special guardian who is nominated by any party[, unless his written consent is filed, at or before the time of entering the order appointing him].

Before entering upon his duties such special guardian shall file his consent to so act.

NOTE.—§ 2530 rewritten and scope enlarged.

[§ 2531. Notice of proceedings to appoint special guardian.

Where a person, other than the infant, or the committee of the incompetent person, applies for the appointment of a special guardian, as prescribed in the last section, at least eight days' notice of the application must be personally served upon the infant, or incompetent person, if he is within the State, and also upon the committee, if any, in like manner as a citation is required by law to be served. But except in a case specified in title fifth of this chapter, the surrogate may, by an order to show cause, prescribe a shorter time, and direct the service of the order to be made in such a manner as he deems proper. The application may be made at the time of presenting the petition, and, in that case, the order to show cause may, in the surrogate's discretion, accompany the citation.]

NOTE.—It is the duty of the surrogate to appoint a special guardian. If any person really represents the infant the surrogate will appoint him.

Applications for appointment should not be encouraged. See prior section concerning nominations.

§ 2535. Consolidation of proceedings.

At any time when two or more proceedings are pending involving in whole, or in part, the same matters, the surrogate may, in his discretion, consolidate such proceedings upon such terms as shall appear to him to be equitable and just; but without prejudice to the power of the surrogate to make any subsequent order or decree in either or any of them.

NOTE.—This general section is intended to eliminate a repetition of the provision found in several sections.

§ 2536 [2546]. Surrogate may refer questions of fact. [or account.]

In a special proceeding other than one instituted for probate [or revocation of probate] of a will, *and subject to the right of trial by jury of any question of fact*, the surrogate may, in his discretion, appoint a referee to take and report to the surrogate the evidence upon the facts, or upon a specific question of fact; to examine an account rendered; to hear and determine all questions, arising upon the settlement of such an account, which the surrogate has power to determine; and to make a report thereon, subject, however, to confirmation or modification by the surrogate. But no referee to examine an account rendered, whether intermediate or final, or to hear and determine all questions arising upon the settlement of such an account, shall be appointed, where the estate or fund does not exceed one thousand dollars in value, or in any case where the item or items in such account to which objections have been made do not aggregate more than two hundred dollars. Such a referee has the same power, and is entitled to the same compensation as a referee appointed by the supreme court for the trial of an issue of fact in an action; and the provisions of this act, applicable to a reference by the supreme court, apply to a reference made as prescribed in this section, so far as they can be applied in substance without regard to the form of proceeding. The surrogate of the county of New York may, on the written consent of all parties appearing in a probate case, appoint a referee, or may, in his discretion, direct an assistant to take and report the testimony, but without authority to pass upon the issues involved therein. Unless a referee's report is passed upon and confirmed, approved, modified or rejected by a surrogate within ninety days after it has been submitted to him, it shall be deemed to have been confirmed as of course and a decree to that effect may be entered by any party interested in the proceeding upon two days' notice.

NOTE.—This section, now that a jury trial is provided for, enables the surrogate to refer a contested claim, and that provision in § 2718 will be repealed.

§ 2537. *Right to trial by jury preserved, how waived.*

Whenever in any proceeding in the surrogate's court, the order or decree of the court will determine any issue or fact as to which any party has a right of trial by jury in any court, such trial shall be deemed to be waived, unless such party, personally, or through his attorney, guardian, committee, or special guardian appears and seasonably demands the same, in which case such trial shall be had according to the practice of such court. And whenever such trial is demanded, the same may be waived in any of the modes prescribed with respect to the trial of an action in section 1009 of this act.

NOTE.—This and the following new section taken with new section 2510 is intended to provide for determining every issue necessary to be determined to wholly settle every estate and every issue raised.

§ 2538 [2547]. Trial by jury.

[The surrogate may, in his discretion, make an order directing the trial by jury, at a trial term of the supreme court to be held within the county, or in the county court of the county, of any controverted question of fact arising in a special proceeding for the disposition of the real property of a decedent, as prescribed in title fifth of this chapter. He must order such trial of any controverted question of fact of which either party has constitutional right of trial by jury, and seasonably demands the same.**]** *In any proceeding in which any controverted question of fact arises, of which any party has constitutional right of trial by jury, and in any proceeding for the probate of a will in which any controverted question of fact arises, the surrogate must make an order directing the trial by jury of such controverted question of fact, if any party appearing in such proceeding seasonably demands the same. The surrogate in such order must direct that such trial be had either before himself and a jury, or at a trial term of the supreme court to be held within the county, or in the county court of the county.* Either of the surrogates of the county of New York may, in his discretion, make an order transferring to the supreme court any special proceeding for the probate of a will pending in said county. *If the trial shall not take place in the surrogate's court the* **[Every]** order **[under this section]** must state distinctly and plainly each question of fact to be tried, *and shall be* **[The order is]** the only authority necessary for the trial **[in the supreme court]** of such question. The verdict, if not set aside by the judge before whom the question is tried, shall be certified to the surrogate's court by the clerk of the court in which the trial took place, and shall be conclusive except upon appeal.**]**; provided, that a new trial may be granted by the judge before whom the trial by jury takes place, upon motion therefor, to be made within ten days after the verdict was rendered, upon exceptions or because the verdict is contrary to the evidence or contrary to law, or is excessive, or is insufficient.**]**

NOTE.—This amendment makes it optional with the surrogate whether he will try by jury or certify the issues for trial in supreme court, and meets the objections that some surrogates are too busy for jury trials and that others have no adequate facilities.

§ 2539. Trial by jury; powers of surrogate; motion to set aside verdict and for new trial.

The surrogate has jurisdiction to conduct a trial by jury in any case in which he is permitted or required by this act to order such trial, and in any case where he shall conduct such trial the same shall be had before the surrogate and a jury, and the trial shall proceed in the same manner as if such trial were had in the supreme court at a trial term thereof held in and for the county of such surrogate.

The provisions of this act relating to trial by the court and a jury, or to a motion for new trial, shall apply to surrogates', courts and to the proceedings therein so far as they can be applied to the substance and subject-matter of such proceedings without regard to form, but the surrogate shall have no power to set aside a verdict or to grant a motion for a new trial in any proceeding in which the trial took place in a court other than the surrogate's court.

NOTE.— New section.

§ 2540. Jury in surrogate's court; how obtained; fees of jurors and officers.

The surrogate may at any time order the drawing of a jury for service in surrogate's court, upon reasonable notice to the parties who have appeared, stating the day, hour and place of such drawing.

For the purpose of procuring the drawing and attendance of a jury, the surrogate shall have all the powers of a justice of the supreme court specified in sections 527 and 528 of the Judiciary Law and in sections 1171 and 1172 of the Code of Civil Procedure; and the clerk of the county of the surrogate shall, upon receiving the order of the surrogate, perform such duties in relation thereto as he is required to perform under a like order of a justice of the supreme court as specified in such sections.

Such jury shall be drawn in the presence of the surrogate, either in his office or in the office of the county clerk, and the minutes thereof shall be made in triplicate, and be signed by the surrogate and the county clerk, and one copy thereof filed in the office of the surrogate, one copy filed in the office of the county clerk, and one copy delivered to the sheriff of the county.

The names of the jurors so drawn shall be returned to the jury box by the county clerk, but if any such juror is again drawn for service in any court, the fact that he served as a juror in surrogate's court shall, upon his request, be a sufficient excuse for not being required to again serve.

In counties where by special act an officer other than the county clerk is designated to draw juries and perform corresponding acts, this section shall apply to such officer as if named herein.

The provisions of law applicable to the summoning of jurors, the return of the sheriff, the fees of the sheriff and jurors and their payment, in supreme court, shall apply where jurors are drawn and summoned for service in surrogate's court; and where the county clerk is not a salaried officer, he shall be entitled for his services to such compensation as shall be audited by the board or body entitled to fix his compensation.

The number of days' service of each juror in surrogate's court shall be certified to the county clerk by the clerk of the surrogate's court.

NOTE.—This section provides a simple and inexpensive way of obtaining a jury, without previous advertising. Surrogate court being always in session, the surrogate is given the same power to draw a jury which the supreme court justice has when a term of the supreme court is being held.

§ 2541. Decision by surrogate after trial without a jury.

Upon a trial before the surrogate without a jury, the surrogate must file in his office his decision in writing which shall direct the decree to be entered, which, except for such direction, need not contain either the facts found or the conclusions of law. No party shall have the right, after the close of the trial, to request a finding upon any question of fact or a ruling upon a question of law. For the purposes of appeal or other form of review, the decree made by the surrogate upon the trial by him of an issue of fact shall have the same effect as the general verdict of a jury would have if the same issues were triable before a court and a jury and were so tried and a general verdict rendered thereon.

NOTE.—Section 2545 to be repealed in part. See next section.

By the change we do away with the useless findings and the resulting miscarriage of justice often brought about by error in the findings or refusals to find. If each case goes up on a general verdict, the appellate division can do justice.

§ 2542 [2545]. Exceptions upon a trial.

An exception may be taken to a ruling by a surrogate upon the trial by him of an issue of fact, [including a finding, or a refusal to find, upon a question of fact,] in a case where such an exception may be taken to a ruling of the court upon a trial, without a jury, of an issue of fact, as prescribed in article third of title first of chapter tenth of this act. The provisions of that article, relating to the manner and effect of taking such an exception, and the settlement of a case containing the exceptions, apply to such a trial before a surrogate; for which purpose, the decree is regarded as a judgment, and notice of an exception may be filed in the surrogate's office. [Upon such a trial the surrogate must file in his office his decision in writing, which must state, separately, the facts found and the conclusions of law. Either party may, upon the settlement of a case, request a finding upon any question of fact, or a ruling upon any question of law; and an exception may be taken to such a finding or ruling, or to a refusal to find or rule accordingly.]* [An appeal from a decree or an order of a surrogate's court brings up for review, by each court to which the appeal is carried, each decision, to which an exception is duly taken by the appellant, as prescribed in this section. But such a decree or order shall not be reversed, for an error in admitting or rejecting evidence, unless it appears to the appellate court that the exceptant was necessarily prejudiced thereby.] **

NOTE.— ** Matter omitted is put under appeal, where it is now in substance.

* See new § 2541.

§ 2543 [2539]. Testimony of [aged, sick, or infirm] witness; how taken.

[Upon the application of a party to a special proceeding, and upon proof, by affidavit] Where it appears to the satisfaction of the surrogate, that the testimony of a witness [in his county, who is so aged, sick or infirm, as to be unable to attend before him to be examined,] is material and necessary [to the applicant], the surrogate [must, where the special proceeding was instituted to procure the probate or revocation of probate of a will, and in any other case,] may, in his discretion, proceed to the place where the witness is, and there, as in open court, take his examination. Such [a] notice of the time and place of taking the examination, as the surrogate prescribes, must be given, by the party applying therefor. [To each other party, except to a party who has failed to appear as required by the citation. The surrogate may also, in his discretion, require notice to be given to any other person interested.]

NOTE.—This section now will permit the surrogate to take testimony anywhere in the state in any case, and will save much expense and trouble where it is much less expensive for a surrogate to go into another county, than to send the surrogate of another county many miles from his office.

§ 2544 [2540]. *Id.*; [in] *by the surrogate of another county.*

[In a case specified in the last section, except that the witness is in another county, w] Where [the witness is a subscribing witness to a will, if] the surrogate has good reason to believe that [the] *a subscribing or a material witness who is in another county of the state cannot attend before him, and no issue is pending therein* [within a reasonable time, to which the hearing may be adjourned], he may make an order, directing that the witness be examined before the surrogate of the county in which he is; specifying [a day, on or before which a certified copy of the] *by an order* [must be delivered to the latter surrogate; and directing notice] *the nature and manner of the examination* [to be given to such persons, and in such manner, as he thinks proper]. A copy of the order[, attested by the seal of surrogate's court,] must be transmitted by him to the surrogate designated in the order, together with the original will, where the testimony relates to the execution of a written will. [If it shall appear from the order that objections to the probate of the will have been filed, the latter surrogate must thereupon, on the day specified in the order, or on another day to which he may adjourn the examination, take the examination of the witness; but if it shall appear from the order that no such objections have been filed, the latter] *The surrogate may cause the examination to be taken by one of the clerks described in section* [twenty-five hundred and ten] *2503 of this* [act] *chapter, as if he possessed original jurisdiction of the special proceeding. The examination, after it is reduced to writing and subscribed by the witness or otherwise duly authenticated, together with a statement of the proceedings upon the execution of the order, must be certified by the surrogate or clerk taking the examination, attested by the seal of his court, and returned without delay, with the original will, if any, to the surrogate who directed the examination, who must file the same in his office.* [by whom all those papers must be filed. And in the other cases named in said section two thousand five hundred and thirty-nine, he] *A surrogate may appoint a referee to take the testimony, who shall report the same to the* [said] *surrogate who makes the appointment. An examination so taken has the same effect as if it was taken by commission.* [before the latter surrogate.]

NOTE.—This provision for taking deposition out of the county would save large expense to estates whose witnesses are doctors, nurses and lawyers who have moved away.

§ 2545 [2544]. Bequest, etc., does not disqualify, etc., witness.

A person is not disqualified or excused from testifying respecting the execution of a will, by a provision therein, whether it is beneficial to him or otherwise.

§ 2546. *Uncontroverted allegations constitute due proof.*

Except as otherwise provided by law, a petition, affidavit or account filed in a special proceeding shall be due proof of the facts therein stated, unless controverted by answer, objection or other proof.

NOTE.—This section is drawn to obviate the supposed necessity of offering oral proof to substantiate uncontroverted allegations, due probably to the fact that in former years petitions were sometimes made orally.

§ 2547. *Filing testimony taken out of court by commission or orally.*

Where in any matter before the surrogate or in a surrogate's court the testimony of any witness shall be taken by or on commission, the same, together with the commission on which it is taken, shall be duly filed in the office of the surrogate but need not be recorded. [The testimony or other proceeding duly taken to be used before the surrogate or surrogate's court, by a stenographer, shall be filed and need not be recorded.]

NOTE.—Last sentence covered by new §§ 2498, 2499. Whole section taken from former § 2620.

§ 2548. Definition of decree and order; how order enforced.

The determination of the rights of the parties to a special proceeding in a surrogate's court, is a decree.

A direction of a surrogate's court, made or entered in writing, and not included in a decree, is **["styled"]** an order. It may be enforced in like manner as a similar order, made by the supreme court in an action. **["; and the costs are the same as upon such an order, and may be collected in like manner."]**

NOTE.—Sections 2550, 2556 consolidated. Last clause inserted in new § 2745.

["§ 2550. Definition of "final order" and "decree.""]

The final determination of the rights of the parties to a special proceeding in a surrogate's court, is styled, indifferently, a final order, or a decree. **[""]**

NOTE.—Consolidated with new § 2548.

["§ 2556. Definition of "order;" how enforced.]

A direction of a surrogate's court, made or entered in writing, and not included in a decree, is styled an order. It may be enforced in like manner as a similar order, made by the supreme court in an action; and the costs are the same as upon such an order, and may be collected in like manner. **[""]**

NOTE.—Consolidated with new § 2548.

§ 2549 [2552]. Decree or order; when evidence of assets.

A decree directing payment by an executor, administrator, *guardian* or testamentary trustee, to a creditor of, or a person interested in, the estate or fund, or an order permitting a judgment creditor to issue an execution against an executor or administrator, is, except upon an appeal therefrom, conclusive evidence that there are sufficient assets in his hands to satisfy the sum which the decree directs him to pay, or for which the order permits the execution to issue. *A decree charging a deceased executor, administrator, guardian or trustee with assets upon an accounting under section 2725 of this chapter, is not evidence of assets in the hands of such accounting executor, administrator, guardian or trustee.*

NOTE.—New matter from former § 2606.

§ 2550. Force and effect of a decree of surrogate's court.

Every decree of a surrogate's court is conclusive as to all matters embraced therein against every person of whom jurisdiction was obtained.

NOTE.—With right to a jury trial preserved, the decree ought to be a final determination as to all matters embraced in it.

§ 2551 [2553]. Decree for money; how docketed; effect; assignment and discharge.

Where a decree directs the payment of a sum of money into court, or to one or more persons therein designated, the surrogate, or the clerk of the surrogate's court, must [upon payment of his fees,] furnish to any person applying therefor one or more transcripts, duly attested, stating all the particulars with respect to the decree which are required by law to be entered in the clerk's docket-book, where a judgment for a sum of money is rendered in the supreme court, so far as the provisions of law directing such entries are applicable to such a decree. Each county clerk to whom such a transcript is presented must, upon payment of his fees, immediately file it, and docket the decree in the appropriate docket-book kept in his office as prescribed by law for docketing a judgment of the supreme court. The docketing of such a decree has the same force and effect, the lien thereof may be suspended or discharged, and the decree may be assigned or satisfied, as if it [was] *were* such a judgment.

NOTE.— Provision for fees found in new § 2500.

§ 2552. Decree; partial satisfaction of.

Upon the application of any person interested, there may be recorded in the surrogate's office any instrument acknowledging payment of moneys pursuant to the provisions of decrees for the judicial settlement of accounts of executors, administrators, testamentary trustees and guardians. Every such instrument to be recorded shall be acknowledged, or proved and duly certified, and the record thereof, or a certified copy of such record, shall be presumptive evidence of the contents of such instrument and its due execution, and shall be presumptively a satisfaction and discharge of such decree as to any payment of money or delivery of property therein acknowledged. [The person presenting any such instrument for record shall pay to the clerk of the surrogate's court a fee of ten cents for each folio. The expense of providing the book specified in this section is a county charge.]

NOTE.— Part of § 2502. Portion omitted put in general section on fees (new § 2500). Heretofore there has been no section giving this privilege.

§ 2553 [2554]. Enforcement of decree by execution.

A decree directing the payment of a sum of money into court, or to one or more parties, may be enforced by an execution against the property of the party directed to make the payment. The execution must be issued by the surrogate, or the clerk of the surrogate's court, under the seal of the court, and must be made returnable to the court. In all other respects the provisions of this act relating to an execution against the property of a judgment-debtor issued upon a judgment of the supreme court, and the proceedings to collect it, apply to an execution issued from the surrogate's court, and the collection thereof, the decree being, for that purpose, regarded as a judgment; except that the proceedings prescribed in title twelfth of chapter seventeenth of this act, if founded upon such a decree, must be taken as if the decree was a judgment of the county court, or, in the city of New York, of the supreme court.

§ 2554 [2555]. Id.; by punishment for contempt.

In either of the following cases, a decree of a surrogate's court directing the payment of money, or requiring the performance of any other act, may be enforced by serving a certified copy thereof upon the party against whom it is rendered, or the officer or person who is required thereby, or by law, to obey it; and if he refuses or wilfully neglects to obey it, by punishing him for a contempt of court:

1. Where it cannot be enforced by execution, as prescribed in the last section.

2. Where part of it cannot be so enforced by execution; in which case, the part or parts which cannot be so enforced may be enforced as prescribed in this section.

3. Where an execution issued as prescribed in the last section to the sheriff of the surrogate's county has been returned by him wholly or partly unsatisfied.

4. Where the delinquent is an executor, administrator, guardian, or testamentary trustee, and the decree relates to the fund or estate, in which case the surrogate may enforce the decree as prescribed in this section, either without issuing an execution, or after the return of an execution, as he thinks proper.

If the delinquent has given an official bond, his imprisonment by virtue of proceedings to punish him for a contempt, as prescribed in this section, or a levy upon his property by virtue of an execution, issued as prescribed in the last section, does not bar, suspend, or otherwise affect an action against the sureties on his official bond.

§ 2555 [2603]. Effect and contents of decree revoking letters.

Upon the entry of a decree, made as prescribed in this chapter, revoking letters issued by a surrogate's court to an executor, administrator or guardian, his powers cease. The decree may, in the discretion of the surrogate, require him to account for all money and other property received by him; and to pay and deliver over all money and other property in his hands into the surrogate's court, or to his successor in office, or to such other person as is authorized by law to receive the same; or it may be made without prejudice to an action or special proceeding for that purpose, then pending, or thereafter to be brought. The revocation does not affect the validity of any act, within the powers conferred by law upon the executor, administrator, or guardian, done by him before the service of the citation, where the other party acted in good faith; or done after the service of the citation, and before entry of the decree, where his powers with respect thereto were not suspended by service of the citation, or where the surrogate, in a case prescribed by law, permitted him to do the same, notwithstanding the pendency of the special proceeding against him; and he is not liable for such an act done by him in good faith.

NOTE.—No change in this section.

§ 2556 [2604]. The last section qualified.

The last section does not affect the liability of a person to whom money or other property has been paid or delivered, as husband, wife, next of kin, or legatee, to respond to the person lawfully entitled thereto, where letters are revoked, because a supposed decedent is living; or because a will is discovered, after administration has been granted in a case of supposed intestacy, or revoking a prior will upon which letters were granted.

NOTE.—No change in this section.

§ 2557. When execution of decree or order is stayed by appeal.

An appeal from a decree or an order directing the commitment of an executor, administrator, testamentary trustee, guardian, or other person appointed by the surrogate's court; or an attorney or counsel employed therein, for disobedience to a direction of the surrogate's court, or for neglect of duty; or directing the commitment of a person refusing to obey a subpoena, or to testify when required according to law; does not stay the execution of the decree or order appealed from unless the appellant gives the undertaking required by section [twenty-five hundred and seventy-nine] 2761 of this [act.] chapter.

An appeal from a decree of a surrogate admitting a will to probate, or granting letters testamentary, or letters of administration, or from an order or judgment of the appellate division of the supreme court affirming a decree of the surrogate admitting a will to probate, or granting letters testamentary or letters of administration does not stay the issuing of letters where, in the opinion of the surrogate manifested by an order, the preservation of the estate requires that the letters should issue.

[§ 2583. Decree revoking probate, etc., not stayed.]

An appeal from a decree [revoking the probate of a will, or] revoking letters testamentary, letters of administration, or letters of guardianship; or from a decree or an order, suspending an executor, administrator, or guardian, or removing or suspending a testamentary trustee, [or a freeholder, appointed to execute a decree, as prescribed in title fifth of this chapter,] or appointing a temporary administrator, or an appraiser of personal property does not stay the execution of the decree or order appealed from.

[§ 2584. Perfected appeal stays proceedings in other cases.]

Except as otherwise expressly prescribed in this [article,] chapter a perfected appeal has the effect, as a stay of the proceedings to enforce the decree or order appealed from, prescribed in section 1310 of this act, with respect to a perfected appeal from a judgment.

NOTE.—Parts of former §§ 2579, 2582, 2583, 2584 combined in this section.

ARTICLE THIRD

Letters, their requisites, priority and authority; how, when and to whom granted; revocation; removal of trustee.

§ 2558 [2590]. Requisites of letters.

Letters testamentary, letters of administration, and letters of guardianship must be in the name of the people of the state. Where they are granted by a surrogate, [or by an officer or person appointed by the board of supervisors, temporarily acting as surrogate,]* they must be *attested* in the name of the officer granting them, signed by him, or by the clerk of the surrogate's court, and sealed with the seal of the surrogate's court. Where they are issued out of another court, they must be *attested* in the name of the judge holding the court, signed by the clerk thereof, and sealed with its seal.

To all letters of guardianship of the property of an infant the surrogate must cause a copy of sections [twenty-eight hundred and forty-two and twenty-eight hundred and fifty-three] 2660 and 2661 [code civil procedure] of this chapter to be annexed or to be printed thereupon.

NOTE — * Omitted because definition of "surrogate" (new § 2768) includes all other officers acting as such.

Last sentence taken from former § 2843.

§ 2559. Limited and restrictive letters.

Letters may be granted limiting and restricting the powers and rights of the holders thereof as follows:

To an executor or administrator where a right of action exists.

To a general guardian where his possession and control of certain property of his ward is limited as provided in section 2650 of this chapter.

NOTE.— Heretofore the only power to issue limited letters has been contained in sections upon other subjects. See former §§ 2664, 2830.

§ 2560 [2591]. Letters evidence of authority; effect of appeal.

Subject to the provisions of the next section, regulating the priority among different letters, letters testamentary, letters of administration, and letters of guardianship, granted by a court or officer having jurisdiction to grant them, [as prescribed in this chapter,] are conclusive evidence of the authority of the persons to whom they are granted, until the decree granting them is reversed upon appeal, or the letters are revoked. [as prescribed in this chapter.]

[§ 2582. Decree for probate, etc.; how far suspended by appeal.]

[An appeal from a decree of a surrogate, admitting a will to probate, or granting letters testamentary, or letters of administration, or from an order or judgment of the appellate division of the supreme court affirming a decree of the surrogate admitting a will to probate or granting letters testamentary or letters of administration, does not stay the issuing of letters, where, in the opinion of surrogate, manifested by an order, the preservation of the estate requires that the letters should issue.* Letters] *When letters testamentary or letters of administration have been issued in accordance with an order of the surrogate as authorized in section 2557 of this act, such letters so issued confer upon the person named therein all the powers and authority, and subject him to all the duties and liabilities of an executor or administrator in an ordinary case, except that they do not confer power to sell real property by virtue of a provision in the will, or to pay or to satisfy a legacy, or distribute the unbequeathed property of the decedent, until after the final determination of the appeal; and in case letters shall have been issued before such appeal, the executor or administrator, on a like order of the surrogate, may exercise the powers and authority, subject to the duties, liabilities and exceptions above provided.*

NOTE.— * Also included under decrees. Former §§ 2591, 2582 consolidated.

§ 2561 [2592]. Priority among different letters.

A [The] person [or persons] to whom letters [testamentary, or letters of administration] are first issued from a surrogate's court having jurisdiction to issue them, [as prescribed in article first of title first of this chapter, have] *has* sole and exclusive authority, [as executors or administrators,] pursuant to the letters, until the letters are revoked, [as prescribed by law]; and [they are] *he is* entitled to demand and recover from any person, to whom letters [upon the same estate] are afterwards issued, by any other surrogate's court, the [decendent's] property in his hands *belonging to the estate or fund*. But the acts of a person, to whom letters were afterwards issued, done in good faith, before notice of the letters first issued, are valid; and an action or special proceeding commenced by him, may be continued by and in the name of the person or persons to whom the letters were first issued.

NOTE.—Changes made to include guardian and trustee, and to make it singular in form throughout.

§ 2562 [2593]. Time, how revoked upon successive letters.

Where it is prescribed by law, that an act[, with respect to the estate of a decedent,] must or may be done within a specified time after letters [testamentary or letters of administration] are issued, and successive or supplementary letters are issued upon the same estate, the time so specified must be reckoned from the issuing of the first letters, except in a case where it is otherwise specially prescribed by law; or where the first or any subsequent letters are revoked, as prescribed in section [twenty-six hundred and eighty-four] 2624 of this chapter [act], by reason of the want of power in the surrogate's court to issue the same, for any cause.

NOTE.—No change in this section.

§ 2563 [2692. Remaining executors may act, where letters of one revoked]. *When surviving or remaining representative may act; when successor must be appointed.*

Where one of two or more executors or administrators dies, or [becomes a lunatic, or is convicted of an infamous offense, or becomes otherwise incapable of discharging the trust reposed in him; or] where letters are revoked with respect to one of them, a successor to the person *who dies*, or whose letters are revoked, shall not be appointed, except where such an appointment is necessary, in order to comply with the express terms of a will; but the others may proceed and complete the administration of the estate pursuant to the letters, and may continue any action or special proceeding brought by or against all.

[§ 2605. Successor may be appointed where letters have been revoked.]

Where *all the persons to whom letters have been issued die*, or *where the letters of all have been revoked by a decree of the surrogate's court*, that court has, except in a case where it is otherwise specially prescribed by law, the same power to appoint a successor to the person *or persons* whose powers have ceased, as if the letters had not been issued. The successor may complete the execution of the trust committed to his predecessor; he may continue in his own name, a civil action, or special proceeding, pending in favor of his predecessor; and he may enforce a judgment, order, or decree, in favor of the latter. [The surrogate's court has the same jurisdiction, upon the petition of the successor, or of a remaining executor, administrator, guardian or trustee, to compel the person whose letters have been revoked, to account for, or deliver over money or other property, and to settle his account, which it would have upon the petition of a creditor or person interested in the estate, if the term of office, conferred by the letters, had expired by its own limitation.]*

NOTE.—The two lines omitted are covered by “where letters are revoked.”

* Last sentence incorporated in new § 2726.

Former §§ 2692, 2605 combined, and enlarged to cover death, which was omitted.

[§ 2661. Persons incompetent to receive letters of administration.]

Letters of administration shall not be granted to a person convicted of an infamous crime, nor to any one incapable by law of making a contract, nor to a person not a citizen of the United States, unless he is a resident of the state, nor to a person under twenty-one years of age, or who is adjudged incompetent by the surrogate to execute the duties of such trust by reason of drunkenness, improvidence or want of understanding.】

NOTE.—This section and § 2612 to be repealed. Two new sections are substituted.

[§ 2612. Persons incompetent to serve as executors.]

No person is competent to serve as an executor who, at the time the will is proved, is:

1. Incapable in law of making a contract.
2. Under the age of twenty-one years.
3. An alien not an inhabitant of this state; or
4. Who shall have been convicted of an infamous crime; or
5. Who, on proof, is found by the surrogate to be incompetent to execute the duties of such trust by reason of drunkenness, dishonesty, improvidence or want of understanding. 【If any such person be named as the sole executor in a will, or if all the persons named therein as executors be incompetent, letters of administration with the will annexed must be issued as in the case of all the executors renouncing.】* A surrogate, in his discretion, may refuse to grant letters testamentary or of administration† to a person unable to read and write the English language.】

* Already included in new § 2603.

† Inserted under § 2565.

This section and § 2661 to be repealed. Two new sections follow.

§ 2564. Persons incompetent to receive letters, or act as testamentary trustee.

No person is competent to serve as an executor, administrator, testamentary trustee or guardian, who is:

1. Under the age of twenty-one years;
2. An adjudged incompetent;
3. An alien not an inhabitant of this state;
4. A felon;
5. Incompetent to execute the duties of such trust by reason of drunkenness, dishonesty, improvidence or want of understanding.

Except as prescribed in section 2567, an executor, testamentary guardian or testamentary trustee, who is not by law required to give a bond, shall not qualify or serve as such where, after objection filed and proof taken, the surrogate finds that:

1. His circumstances are such that they do not afford adequate security to the creditors, or persons interested in the estate or fund for the due administration thereof.
2. He is not a resident of the state of New York.

NOTE.—By rewriting we have separated the two classes—those who are incompetent and those who may be excluded.

§ 2565. Surrogate may refuse letters under certain conditions.

The surrogate may, in his discretion, refuse to grant letters to any person unable to read and write the English language; or to any person who does not file in the surrogate's office an instrument acknowledged or proved, and duly certified designating the clerk of the surrogate's court, or some other person, approved by the surrogate, on whom service of any process issuing from the surrogate's court may be made in like manner and with like effect as if it were served personally upon himself, whenever the person so receiving letters can not be found and served within the state of New York, after due diligence used. The fact that he can not be so served shall be conclusively established by an order to that effect made by the surrogate. Such designation can not be revoked except upon the filing of the designation of another officer or person approved by the surrogate by endorsement thereon.

NOTE.—By this section our courts can obtain jurisdiction of the person of the representative who leaves the state, and thereby save some estates which are now lost.

§ 2566. *Objections to grant of letters.*

Any person interested in the estate or fund may, before letters testamentary, of administration or of guardianship are granted, or a testamentary guardian or trustee is allowed to qualify and serve, file objections showing his interest in the estate or fund, and setting forth specifically one or more legal objections to granting the letters to one or more of the persons about to receive the same, or to allowing a testamentary guardian or trustee to qualify and serve. Where such objections are filed, the surrogate must stay the granting of letters or refuse to allow the testamentary guardian or trustee to qualify until the matter is disposed of.

NOTE.—This section is written to make a general provision for objections.

§ 2567 [2638]. Bond; when required.

In either of the following cases, a person named as executor in a will, or a testamentary guardian or trustee who is not required by the will to give a bond, may entitle himself to letters or to act thereunder [testamentary thereupon,] by giving a bond as prescribed by law, although an objection against him has been established to the satisfaction of the surrogate as follows:

1. [Where the objection is, that] *That* his circumstances are such, that they do not afford adequate security to the creditors, or persons interested in the estate, for the due administration of the estate.

2. [Where the objection is, that] *That* he is not a resident of the state; and he is a citizen of the United States.

[But a person against whom there is no objection, except that of non-residence, is entitled to letters testamentary, without giving a bond, if he has an office within the state for the regular transaction of business in person; and the will contains an express provision, to the effect that he may act without giving security.]

NOTE.—See new § 2639, where all executors having trust duties are required to give bonds, so this section now applies to executors who have no trust duties. The objections are set forth in new §§ 2564, 2565. By striking out the last sentence all nonresident executors must give bonds.

§ 2568 [2594]. Official oaths of executors, etc.

The official oath or affirmation of an executor, administrator, [or] guardian, or *testamentary trustee*, to the effect that he will well, faithfully, and honestly discharge the duties of his office, describing it, must be filed [with] in the surrogate's office, before letters are issued to him, or *he is permitted to act*. The oath may be taken before any officer[, within or without the state,] who is authorized to [take an affidavit, to be used in the supreme court. Where it is taken without the state, it must be certified as required by law, with respect to an affidavit to be used in the supreme court.] *administer oaths*.

NOTE.—It is not thought to be necessary to have an oath certified by a certificate, or taken out of the state by any particular officer.

§ 2569 [2685]. Removal, or [R]evocation of letters for disqualification, misconduct, etc.

In either of the following cases, a creditor, or person interested in the estate of a decedent, *or a ward or friend of a ward, or a person beneficially interested in the execution of a trust, or any surety on a bond of a person to whom letters have been granted or of a trustee* may present to the surrogate's court *having jurisdiction* [from which letters were issued to an executor or administrator,] a [written] petition, [duly verified,] praying for a decree revoking those letters, *or removing such trustee*, and that the [executor or administrator,] *respondent* may be cited to show cause why a decree should not be made accordingly:

1. Where *the respondent* [the executor or administrator] was, *when appointed* or when letters were issued to him, or has since become incompetent, or disqualified by law to act as such, and the grounds of the objection did not exist, or the objection was not taken by the petitioner, or a person whom he represents, [upon the hearing of the application for letters.] *before the letters were granted or the appointment made.*

2. Where, by reason of his having wasted or improperly applied the money or other assets in his hands, or invested money in securities unauthorized by law, or otherwise improvidently managed or injured the property committed to his charge; or by reason of other misconduct in the execution of his office, or dishonesty, drunkenness, improvidence, or want of understanding; he is unfit for the due execution of his office.

3. Where he has wilfully refused, or, without good cause, neglected, to obey any lawful direction of the surrogate contained in a decree or order, or any provision of law relating to the discharge of his duty.

4. Where the grant of his letters *or his appointment* was obtained by a false suggestion of a material fact.

5. *Where by the terms of a will, deed or order his office was to cease upon a contingency which has happened.*

[5.] 6. In the case of an executor, *who has not been required to give a bond*, where his circumstances are such that they do not afford adequate security to the creditors or persons interested for the due administration of the estate; *or* [6. In the case of an executor,] where he has removed or is about to remove from the state, [and the case is not one where a nonresident executor would be entitled to letters without giving a bond.]

[7. In the case of an executor, where, by the terms of the will, his office was to cease upon a contingency, which has happened.]

7. In case of a guardian where he has removed or is about to remove from the state, or where the interest of the infant will be promoted by the appointment of another person as guardian.

8. In the case of a temporary administrator, appointed upon the estate of an absentee, where it is shown that the absentee has returned; or that he is living, and capable of returning and resuming the management of his affairs; or that an executor, or administrator-in-chief has been appointed upon his estate; or that a committee of his property has been appointed by a competent court of the state.

NOTE.—The plan is to make these general sections on revocation of letters include guardians and trustees, and so eliminate the separate sections practically repeating the same provisions.

[§ 2832. When letters may be revoked for misconduct, etc.

In either of the following cases, the ward, or any relative or other person in his behalf, or the surety of a general guardian, may, at any time, present to the surrogate's court, a written petition, duly verified, setting forth the facts, and praying for a decree, revoking letters of guardianship, either of the person, or of the property, or both; and that the general guardian complained of may be cited to show cause, why such a decree should not be made.

1. Where the general guardian is disqualified by law, or is, for any reason, incompetent to fulfill his trust.

2. Where, by reason of his having wasted or improperly applied the money or other property in his charge, or invested money in securities unauthorized by law, or otherwise improvidently managed or injured the real or personal property of the ward, or by reason of other misconduct in the execution of his office, or his dishonesty, drunkenness, improvidence, or want of understanding, he is unfit for the due execution of his office.

3. Where he has wilfully refused, or, without good cause, neglected to obey any lawful direction of the surrogate, contained in a decree or an order; or any provision of law, relating to the discharge of his duty.

4. Where the grant of letters to him was obtained by a false suggestion of a material fact.

5. Where he has removed, or is about to remove, from the state.

6. In the case of the general guardian of the person, where the infant's welfare will be promoted by the appointment of another general guardian.]

NOTE.— Repeal as substance has been incorporated in new § 2569.

§ 2570 [2686]. Petition; citation thereupon; *suspension*.

A petition presented as prescribed in the last section, must set forth the facts [and circumstances,] showing that the case is one of those therein specified, *and unless the surrogate declines to entertain the proceeding*, [Upon proof, by affidavit or oral testimony, satisfactory to the surrogate, of the truth of the allegations contained in the petition,] a citation must be issued according to the prayer thereof. [except that, where the case is within subdivision fifth of the last section, and the executor has given a bond, as prescribed in article first of this title, the surrogate may, in his discretion, entertain or decline to entertain the application.]

[§ 2834. Suspension of general guardian; effect thereof.]

If such citation be issued [Upon issuing a citation as prescribed in the last section,] the surrogate may, in his discretion, make an order suspending the *respondent* [guardian,] wholly or partly, from the exercise of his powers and authority, during the pendency of the special proceeding. A certified copy of an order so made must accompany the citation, and be served therewith; but, from the time when it is made, the order is binding upon the [general guardian] *respondent* and upon all other persons, without service thereof, subject to the exceptions and limitations prescribed in section 2555 [twenty-six hundred and three] and [twenty-six hundred and four] 2556 of this [act] chapter, with respect to a decree revoking letters.

See Matter of Owsley, 153 A. D. 90.

NOTE.— Former §§ 2686, 2834 consolidated and made general.

[§ 2834. Suspension of general guardian; effect thereof.]

Upon issuing a citation as prescribed in the last section, the surrogate may, in his discretion, make an order suspending the guardian, wholly or partly, from the exercise of his powers and authority, during the pendency of the special proceeding. A certified copy of an order so made must accompany the citation, and be served therewith; but, from the time when it is made, the order is binding upon the general guardian and upon all other persons, without service thereof, subject to the exceptions and limitations prescribed in section twenty-six hundred and three and twenty-six hundred and four of this act, with respect to a decree revoking letters.]

NOTE.—Consolidated with new § 2570 and made to apply in all cases.

[§ 2833. Citation; hearing; decree.]

Upon the presentation of a petition, as prescribed in the last section, the surrogate must inquire into the matter; and for that purpose, he may issue a subpoena to any person requiring him to attend and testify in the premises. If the surrogate is satisfied that there is probable cause to believe that the allegations of the petition are true, he must issue a citation to the general guardian complained of; and, upon the return thereof, if the material allegations of the petition are established, he must make a decree, revoking the guardian's letters accordingly; except that, where the case is within subdivision third or fourth of the last section, he must dismiss the proceedings, under the like circumstances and upon the like terms, as prescribed in sections twenty-six hundred and eighty-six and twenty-six hundred and eighty-seven of this act, where a similar complaint is made against an executor or administrator.]

NOTE.—Incorporated in new §§ 2570, 2571.

§ 2571 [2687]. Hearing; decree; testamentary trusts not affected.

Upon the return of a citation issued as prescribed in the last section, [if the objections, or any of them, are established to] the surrogate[’s satisfaction, he must] *may* make a decree revoking the letters issued to, *or removing*, the *respondent*, [person complained of, but the surrogate] *or may*, in his discretion, dismiss the proceedings upon such terms[, as to costs,] as justice requires.[, and may allow the letters to remain unrevoked, in either of the following cases:]

1. Where the case is within subdivision third of the last section but one, if the direction of the surrogate or the provision of law is obeyed, and suitable amends made to each person injured by the neglect or refusal to obey it.

2. Where the case is within subdivision fourth of that section, if the person cited is entitled to letters, notwithstanding the false suggestion.

3. Where the case is within subdivision fifth of that section, if the executor gives, within a reasonable time, not exceeding five days, a bond, as prescribed in article first of this title.]

[§ 2688. Decree not to affect testamentary trusts.]

Where an executor or an administrator is also a testamentary trustee, a decree revoking his letters does not affect his power or authority as testamentary trustee, except in the case specially prescribed for that purpose, in [title sixth of this chapter.] *section 2640 of this chapter.*

NOTE.—By consolidating § 2833 with this section we eliminate that section. As now amended the surrogate may use his discretion as to revoking letters. Often parties may have the right to have letters revoked, but, for instance, if a nonresident has not been cited on administration, it might not be for the interest of the estate to revoke them. Under the general power given, the surrogate may require a bond.

By adding § 2688 here we eliminate that section.

[§ 2688. Decree not to affect testamentary trusts.

Where an executor or an administrator is also a testamentary trustee, a decree revoking his letters does not affect his power or authority as testamentary trustee, except in the case specially prescribed for that purpose, in title sixth of this chapter.]

NOTE.— This section added to new § 2571.

§ 2572 [2689]. Application by executor, etc., for [revocation of letters] *permission to resign.*

An executor, [or] administrator, *guardian or testamentary trustee* may, at any time, present to the surrogate's court a [written] petition, [duly verified,] praying that his account may be judicially settled; that a decree may thereupon be made, revoking his letters *or permitting him to resign*, and discharging him accordingly; and that the same persons may be cited to show cause why such a decree should not be made who must be cited upon a petition for a judicial settlement of his account.[, as prescribed in article second of title fourth of this chapter.] The petition must set forth the facts upon which the application is founded; and it must, in all other respects, conform to a petition praying for a judicial settlement of *his* [the] account [of an executor or administrator]. The surrogate may, in his discretion, entertain or decline to entertain the application.

NOTE.— Made general and thus eliminating former §§ 2835, 2814.

[§ 2814. Resignation of trust.

A testamentary trustee may, at any time, present to the surrogate's court a written petition, duly verified, praying that his account may be judicially settled; that a decree may thereupon be made, allowing him to resign his trust, and discharging him accordingly; and that all persons who are entitled absolutely or contingently, by the terms of the will or by operation of law, to share in the fund or estate, or the proceeds of any property held by the petitioner as a part of his trust, may be cited to show cause, why such a decree should not be made. The petition must set forth the facts upon which the application is founded; and it must, in all other respects, conform to a petition presented for a judicial settlement of the account of a testamentary trustee, as prescribed in this title. The surrogate may, in his discretion, entertain or decline to entertain the petition. If he entertains it, the proceedings must be, in all respects, the same as upon a petition for a judicial settlement of the petitioner's account, except that, upon the hearing, the surrogate must first determine, whether sufficient reasons exist for granting the prayer of the petition, and, if he determines that they exist, he must make an order accordingly, and allowing the petitioner to account, for the purpose of being discharged. Upon the petitioner's fully accounting, and paying all money belonging to the trust, and delivering all books, papers, and other property of the trust in his hands, either into the surrogate's court, or as the surrogate directs, a decree may be made, accepting his resignation, and discharging him accordingly.]

NOTE.—Incorporated in new § 2572.

[§ 2835. Application by general guardian for revocation of letters.

A general guardian, appointed as prescribed in this title, may, at any time present to the surrogate's court a written petition, duly verified, setting forth the facts upon which the application is founded, and praying that his account may be judicially settled, *and* that a decree may thereupon be made, revoking his letters, and discharging him accordingly; and that the ward may be cited to show cause, why such a decree should not be made. The surrogate may, in his discretion, entertain, or decline to entertain, the application.]

NOTE.—Incorporated in new § 2572. By making one section apply to all classes, we eliminate many sections, and combine all the provisions in one section, as the provisions are similar.

§ 2573 [2690]. Proceedings thereupon.

If the surrogate entertains an application, made as prescribed in the last section, the proceedings thereupon must be[, in all respects,] the same as upon a petition for a judicial settlement of the petitioner's account; except that [upon the hearing,] the surrogate must first determine whether sufficient reasons exist for granting the prayer of the petition. [If he determines that they exist, he must make an order accordingly, and allowing the petitioner to account, for the purpose of being discharged.] Upon his fully accounting, and paying over all money which is found to be due from him [to the estate], and delivering over all books, papers, and other property [of the estate] in his hands, either into the surrogate's court, or in such a manner as the surrogate directs, a decree may be made, revoking the petitioner's letters, *or removing him*, and discharging him accordingly.

NOTE.—The omitted words are deemed unnecessary. The section now applies to a guardian or trustee.

[§ 2836. Proceedings thereupon.

If the surrogate entertains an application, made as prescribed in the last section, he must issue a citation, as prayed for in the petition; and he may also require notice of the application to be given to such other persons, and in such a manner as he deems proper. Upon the return of the citation, a guardian ad litem for the ward must be appointed; and the surrogate may also, in his discretion, allow any person to appear and contest the application, in the interest of the ward. Upon the hearing, the surrogate must first determine whether sufficient reasons exist for granting the prayer of the petition. If he determines that they exist, and that the interests of the ward will not be prejudiced by the resignation of the general guardian, the surrogate must make an order accordingly, and allowing the petitioner to account, for the purpose of being discharged. Upon his fully accounting and paying all money which is found to be due from him to the ward, and delivering all books, papers and other property of the ward in his hands, either into the surrogate's court, or in such a manner as the surrogate directs, a decree may be made, revoking the petitioner's letters, and discharging him accordingly.】

NOTE.—This section incorporated in new § 2573. The provision for appointment of guardian ad litem not necessary, under the general power given in all cases.

§ 2574 [2691]. In what cases letters may be revoked or trustee removed without a citation.

In either of the following cases, the surrogate **[must]** *may make a decree revoking letters testamentary, [or letters] of administration or of guardianship, issued from his court, or removing a testamentary trustee, without a petition or the issuing of a citation:*

1. Where the *executor, administrator, guardian or trustee [person to whom the letters were issued]* is not a resident of the state, or is absent therefrom, and upon being duly cited to account, neglects to appear upon the return of the citation, without showing a satisfactory excuse therefor, and the surrogate has not sufficient reason to believe that such an excuse can be made.

2. Where a citation**[.]** or order issued to such a person, in a case prescribed by law, cannot be personally served upon him, by reason of his having absconded or concealed himself.

3. Where, by reason of his default in returning an inventory, or his neglect or refusal to obey an order, such a person has remained, for thirty days, committed to jail. **[under the surrogate's order, granted in proceedings taken as prescribed in section twenty-seven hundred and fifteen of this act.]**

[4. In the case of a temporary administrator, where an order has been made, and served, as prescribed in section twenty-six hundred and seventy-nine of this act, directing him to deposit money, or show cause why a warrant of attachment should not issue against him; and a warrant of attachment, issued thereupon, has been returned not served upon him.]

4. *Where by the judgment of another court of competent jurisdiction the will under which letters have been issued is declared to be invalid.*

5. *Where an executor or administrator has failed to give the bond required to sell real estate to pay debts, or to give a new bond, or a new surety when required to do so by an order or decree of the surrogate's court.*

6. *Where such person has been convicted of a felony.*

NOTE.—As a person convicted of a felony is not entitled to letters, when he has subsequently been convicted his letters should be revoked. The new matter adds cases provided for in other sections, but never included here. Made to include guardians and trustees.

ARTICLE FOURTH

Bonds and undertakings, approval, recording, prosecution and discharge; sureties, their release, rights and obligations.

§ 2575. Approval and recording of bonds and undertakings.

All bonds and undertakings filed in the surrogate's court must be approved as provided in section 812 of this act, except that in counties containing a city of the first or second class, the surrogate or surrogates may, in writing, designate a clerk in the office to approve all or any class of bonds or undertakings, and when approved such bonds and undertakings must be recorded.

NOTE.—In large counties the signing of the approval on bonds by the surrogate is a great labor and could as well be done by a clerk.

Recording is required by § 247, County Law.

§ 2576 [2595]. Deposit of securities to reduce penalty of bond.

In a case where a bond, or new sureties [to] on a bond, may be required by a surrogate from an executor, administrator, guardian, or [other] *testamentary* trustee, if the value of the estate or fund is so great that the surrogate deems it inexpedient to require security in the full amount prescribed by law, he may direct that any securities for the payment of money, belonging to the estate or fund, be [deposited with him, to be] delivered to the county treasurer, or *chamberlain*, or be deposited subject to the order of the *executor, administrator, guardian or testamentary* trustee, countersigned by the surrogate, with a trust company, *bank or safe deposit company* [duly authorized by law to receive the same]. After such a deposit has been made, the surrogate may fix the amount of the bond with respect to the value of the remainder only of the estate or fund. A security thus deposited shall not be withdrawn from the custody of the *depository* [county treasurer or trust company], and no person other than the county treasurer, *chamberlain* or the proper officer of the *depository* [trust company], shall receive or collect any of the principal or interest secured thereby, without the special order of the surrogate [entered in the appropriate book]. Such an order can be made in favor of *such executor, administrator, guardian or testamentary trustee*, [the trustees, appointed,] only where an additional bond has been given by him, or upon proof that the estate or fund has been so reduced, by payments or otherwise, that the penalty of the bond originally given will be sufficient in amount to satisfy the provisions of law relating to the penalty thereof, if the security so withdrawn is also reckoned in the estate or fund.

NOTE.—Changed to apply generally and to include the chamberlain in large cities.

§ 2577 [2597]. When new bond or new sureties may be required.

Any person interested in the estate or fund, may present to the surrogate's court a **[written]** petition, **[duly verified,]** setting forth that a surety **[in]** on a bond, taken as prescribed in this chapter, insufficient, or has removed, or is about to remove, from the State, or *is dead*, or that the bond is inadequate in amount; and praying that the principal in the bond may be required to give a new bond, in a larger penalty, or new or additional sureties, as the case requires; or in default thereof, that he may be removed from his office, and that letters issued to him may be revoked. Where the bond so taken is that of a guardian, the petition may also be presented by any relative of the infant. When the bond is that of an executor, or administrator, the petition may also be presented by any creditor of the decedent. If it appears to the surrogate that there is reason to believe that the allegations of the petition are true, *a citation shall issue to* **[he must cite]** the principal in the bond to show cause why the prayer of the petition should not be granted.

NOTE.—The language in the first line, "estate or fund," makes this section apply in case of a bond of a trustee.

§ 2578 [2598]. *Id.*; how principal may be required to give a new bond, et cetera.

Upon the return of a citation, issued as prescribed in the last section, the surrogate must hear the allegations and proofs of the parties; and if the objections, or any of them, are found to be valid, he must make an order, requiring the principal in the bond to give new or additional sureties, or a new bond in a larger penalty, as the case requires, within such reasonable time, not exceeding **[five]** *twenty* days, as the surrogate fixes; and directing that, in default thereof, *he be removed or his letters be revoked.*

NOTE.—It is considered that five days is too short a time.

[§ 2599. Decree revoking letters for failure to give new bond.]

If a bond with new or additional sureties, or in a larger penalty, is approved and filed in the surrogate's office, as required by such an order, the surrogate must make a decree, dismissing the proceedings, upon such terms as to costs, as justice requires; otherwise he must make a decree, removing the delinquent from office, and revoking the letters issued to him. **]**

NOTE.—Revoking letters under these sections is now covered by new § 2574.

If the order is obeyed the proceeding should not be dismissed. This section is covered by the prior one and can be repealed.

§ 2579 [2600]. Sureties may apply to be released, as to future breaches.

Any or all of the sureties in a bond taken as prescribed in this chapter, may present a petition to the surrogate's court praying to be released from responsibility on account of any future breach of the condition of the bond, and that the principal in the bond be required to give new sureties *and* to render and settle his account *and that* a citation issue to said principal to *show cause why the application should not be granted.* **[attend on such application. The surrogate must thereupon issue a citation accordingly.]**

NOTE.—All citations will be “to show cause.” Last sentence unnecessary under general duty to issue citations.

§ 2580 [2601]. Release of old sureties on the giving of new.

Upon the return of the citation issued as prescribed in the last section, if the principal in the bond does not file a new bond in the usual form with new sureties to the satisfaction of the surrogate, the surrogate must make an order requiring said principal to file such new bond within such reasonable time, not exceeding [five] twenty days, as the surrogate fixes. Should the principal file such new bond upon the return of such citation or within the time fixed by such order, the surrogate must thereupon make a decree releasing the petitioner from liability upon the bond for any subsequent act or default of the principal, and requiring the principal to render and settle his account to and including the date of such decree, and to file such account within a time fixed, not exceeding twenty days from such date; otherwise he must make a decree removing such principal or revoking his [the delinquent's] letters.

§ 2581. Principal may substitute new bond or surety after judicial settlement.

Whenever there is pending in surrogate's court a proceeding for the intermediate judicial settlement of the accounts of an executor, administrator, guardian or testamentary trustee who has been required to file an official bond, such principal may ask in such proceeding, upon good cause shown, for leave to file a new bond or a new surety. If the surrogate grants such application he shall thereupon fix the penalty of the new bond, or the amount in which the new surety must justify, and upon the filing and approval of such new bond, or of the undertaking of the new surety, the surrogate may provide in the decree of judicial settlement that the former bond or surety be discharged from and after the date of such decree from all liability, except upon appeal therefrom, as to all matters embraced in said account and decree.

NOTE.—While there is now a provision that the surety may ask for a new bond, there is none that the principal may do so. This change will also enable the principal to reduce the penalty in some cases.

Accounting can be had at any time after one year, or expiration of notice to creditors. New § 2729.

§ 2582 [2596]. Sureties liable for money, et cetera, received in another capacity.

A person to whom letters are issued is liable for money or other personal property of the estate which was in his hands, or under his control, when his letters were issued, in whatever capacity it was received by him, or came under his control. Where it was received by him, or came under his control, by virtue of letters previously issued to him in the same or another capacity, an action to recover the money, or damages for failure to deliver the property, may be maintained upon both official bonds; but, as between the sureties upon the official bond given upon *the issue* of the prior letters, and those upon the official bond given upon *the issue* of the subsequent letters, the latter are liable over to the former.

NOTE.—No material change in this section.

§ 2583 [2607]. When bond may be prosecuted.

Where an execution, issued upon a surrogate's decree, against the property of an executor, administrator, testamentary trustee, or guardian, has been returned wholly or partly unsatisfied, an action to recover the sum remaining uncollected may be maintained upon his official bond by and in the name of the person in whose favor the decree was made. If the principal debtor is a resident of the state, the execution must have been issued to the county where he resides.

NOTE.—No change in this section.

§ 2584 [2608]. Successor may prosecute official bond.

[Where letters have been revoked by a decree of the surrogate's court, the successor of the executor, administrator, or guardian whose letters are so revoked,] *Where a successor of an executor, administrator, guardian or testamentary trustee has been appointed, he may maintain an action upon his predecessor's official bond, in which he may recover any money, or the full value of any other property, received by the principal in the bond, and not duly administered by him; and to the full extent of any injury, sustained by the estate of the decedent, [or of the] infant or beneficiary as the case may be, by any act or omission of the principal.*

The money recovered in such an action *shall be* **[is regarded as]** part of the estate *or fund* in the hands of the *successor* **[plaintiff,]** and must be distributed or otherwise disposed of accordingly; except that a recovery for an act or omission, respecting a right of action, or other property, appropriated by law for the benefit of the husband, wife, family, or next of kin of a decedent, or disposed of by a will for the benefit of any person is for the benefit of the person or persons so entitled thereto.

A decree against such decedent's executor, or administrator, rendered upon an accounting under section 2725 of this chapter, has the same effect as if an execution issued upon a surrogate's decree against the property of decedent had been returned unsatisfied during decedent's life time.

NOTE.—Part of § 2606 inserted here as new matter. Section changed to include guardians and trustee.

§ 2585 [2609]. Action on official bond, when no successor appointed.

[Where the letters of an executor or administrator have been so revoked,**]** *Where an executor, administrator, guardian or testamentary trustee has been removed, or his letters have been revoked,* and no successor is appointed, any person aggrieved may, upon obtaining an order from the surrogate granting him leave so to do, maintain an action upon the official bond of *the person so removed or whose letters have been revoked* **[**the executor or administrator,**]** in behalf of himself and all others interested; in which the plaintiff may recover any money, or the full value of any other property, received by the principal in the bond, and not duly administered by him, and to the full extent of any injury sustained by the estate of the decedent, *infant or beneficiary,* by any act or omission of the principal. The money recovered in such an action must be paid, by the sheriff or other officer who collects it, into the surrogate's court *to be paid to a successor when appointed and distributed to the persons entitled thereto.* **[**and the surrogate must distribute it to the creditors or other persons entitled thereto. The proceedings for such a distribution are the same as prescribed in title fifth of this chapter, for the distribution of the proceeds of a sale of real property.**]**

NOTE.—Prior section provides for proceeding by successor. No one but successor should maintain the proceeding, but it may be well to retain the provision.

The last sentence refers to the old method of distributing proceeds of sale of real estate which has been repealed.

§ 2586. Discharge of bond or undertaking given on appeal, or for the performance of an act.

Any party to a bond or undertaking given upon appeal, or to insure the performance of an act by himself or another, as to which no accounting is required by law for its discharge, may apply to the surrogate's court, upon notice to all parties interested in the subject-matter, or in the proceeding in which the bond or undertaking was given, for the discharge of the obligation or liability, in whole or in part. The court may thereupon by order certify that the whole obligation or liability on the bond or undertaking is discharged, or may direct that such obligation or liability be discharged in such amount as may be just, and that the bond or undertaking shall thereafter have the same force and effect as if given in terms for the remaining obligation or liability.

NOTE.—There has heretofore been no provision for discharging an appeal bond, or one given for the performance of a definite act.

§ 2587 [2610]. Application of this article to executors, et cetera, heretofore appointed.

The provisions of this article apply to an executor, administrator, or guardian, to whom letters have been issued, and to a testamentary trustee whose trust has been created before this chapter takes effect; except that it does not affect, in any manner, the liability of the sureties [in] on a bond executed before this chapter takes effect.

NOTE.—No change in this section.

TITLE III

Granting letters of administration, probating and construing wills; issue of letters testamentary, and ancillary letters testamentary and of administration; appointment and qualification of testamentary trustee; appointment and qualification of general ancillary and testamentary guardian, and guardian by deed; annual accounts by such guardians.

- Article** I. Grant of letters of administration, and qualification of administrators; public and temporary administrators; administration with the will annexed and *de bonis non*.
- II. Production and probate of wills; objections and their trial; construction of wills; qualification of executors; grant of ancillary letters testamentary and of administration; qualification of testamentary trustee; security from testamentary trustees and executors acting as trustees.
- III. Appointment and qualification of general, ancillary and testamentary guardians, and guardians by deed; filing and examining guardians' annual accounts.

ARTICLE FIRST

Grant of letters of administration, and qualification of administrator; public and temporary administrator; administrator with the will annexed, and de bonis non.

§ 2588 [2660]. Who entitled to letters of administration.

Administration in case of intestacy must be granted to the *persons* [relatives of the deceased] entitled to [succeed to his] *take or share in the personal property, who are competent and will accept the same, in the following order:*

1. To the surviving husband or wife.

2. To the children.

[7] 3. To the grandchildren.

[3] 4. To the father.

[4] 5. To the mother.

[5] 6. To the brothers.

[6] 7. To the sisters.

8. To any other next of kin entitled to share in the distribution of the estate, *preference being given to the person entitled to take the largest share in the estate, except as hereinafter provided.*

If a person entitled to take all the personal estate is an infant, or an incompetent, or has died, his guardian, committee or legal representative, as the case may be, shall have a prior right to letters in his place and stead.

If all the persons entitled to take the personal estate are infants, or adjudged incompetents, or, if no adult or competent person entitled to take or share in the estate will accept the same, letters may be granted to the general guardian of an infant or to the committee of an incompetent, in the place of such infant or incompetent.

If no person entitled to take or share in the estate will accept the same or an appointment is not made by consent as hereinafter provided, then administration shall be granted as follows:

a. *To the public administrator.*

b. *To the county treasurer of the county.*

c. *To any other person or persons.*

[9. To any executor or administrator of a sole legatee named in a will whereby the whole estate is devised to such deceased sole legatee.]

[If a person entitled is a minor, administration must be granted to his guardian, if competent, in preference to creditors or other persons. If no relative, or guardian of a minor relative, will accept the same, the letters must be granted to the creditors of the deceased; the creditor first applying, if otherwise competent, to be entitled to preference. If no creditor applies, the letters must be granted to any other person or persons legally competent. Letters of administration shall also be granted to an executor or administrator of a deceased person named as sole legatee in a will. The public administrator in the city of New York has preference, after the next of kin and after an executor or administrator of a sole legatee named in a will whereby the whole estate is devised to such deceased sole legatee over creditors and all other persons. In other counties, the county treasurer shall have preference next after creditors over all other persons.] If several persons [of the same degree of kindred to the intestate are entitled] *have an equal right* to administration, they must be preferred in the following order: First, men to women; second, relatives of the whole blood to those of the half blood; third, unmarried women to married. If there are several persons equally entitled to administration, the surrogate may grant letters to one or more of such persons. [; and a] Administration may be granted to one or more competent persons, *jointly with, and upon the application of, a person entitled* [although not entitled to the same, with the consent of the person entitled to be joined with such person or persons]; *or to a competent person or persons not entitled upon the consent of all of the persons entitled to take or share in the estate who are within this state and competent*, which consent must be in writing, and filed in the office of the surrogate. *For the purposes of this section a trust company or other corporation authorized to act as administrator shall be included in the word "person."* [If, in an action, brought or about to be brought, the intestate, if living, would be a proper party thereto, any party to such action, interested in the subject thereof, may apply to the surrogate's court for the granting of letters of administration to himself, or some other qualified person, and upon the jurisdictional facts being satisfactorily shown, and no relative, or guardian of a minor relative, and no creditor, county treasurer or public ad-

ministrator consenting to such administration, some legally competent person must be appointed administrator.】

NOTE.—This now gives preference to public administrator over creditors. Subd. c as amended amply provides for every other interested person, including undertaker, creditor and one interested in action about to be brought. Former subd. 9 transferred to § 2643, adm. c. t. a. (new § 2603).

The general intention of the changes is to give only persons interested the right to administer. The clause after subd. 8 gives the right to the representative of a person who takes the whole estate.

The second sentence after subd. 8 is intended to give a guardian or committee the right to letters where there is no adult or competent person entitled to them, or who will accept, but otherwise not.

The new matter on second page is intended to allow competent and resident parties who take, to consent to have an outsider appointed.

【§ 2661. [Am'd, 1893.] Persons incompetent to receive letters.

Letters of administration shall not be granted to a person convicted of an infamous crime, nor to any one incapable by law of making a contract, nor to a person not a citizen of the United States, unless he is a resident of the state, nor to a person under twenty-one years of age, or who is adjudged incompetent by the surrogate to execute the duties of such trust by reason of drunkenness, improvidence or want of understanding.】

NOTE.—This section to be repealed. Substance is rewritten into general section under "Letters," new §§ 2564, 2565.

§ 2589 [2662]. Application for letters.

[A person entitled absolutely or contingently, to administration on] *A creditor or person interested in the estate of an intestate, or interested in an action brought or about to be brought in which the intestate, if living, would be a proper party,* [or any person having a claim for the funeral expenses of the decedent,]* may present to the surrogate's court having jurisdiction, a [written] petition, [duly verified,] praying for a decree awarding letters of administration, either to him, or to [such] another person [or persons, having a prior right, as is entitled thereto, or in the alternative, as the petitioner elects,]. [and if necessary, that the persons required to be cited, as prescribed in the next section, be cited to show cause why such a decree should not be made. The petition must set forth the petitioner's title; the facts on which the jurisdiction of the court to grant letters of administration upon the estate depends; and the names of the husband or wife, if any, and of the next of kin of the decedent, so far as they are known to the petitioner, or can be ascertained by him with due diligence.] †A citation shall not be issued, and a decree shall not be made[.] where a citation is not necessary, until the petitioner *shows* [presumptively proves, by affidavit or otherwise,] to the satisfaction of the surrogate, the existence of all the jurisdictional facts, and particularly that the decedent left no will. [For the purpose of the inquiry touching any of these matters, the surrogate may issue a subpoena, requiring any person to attend and be examined as a witness.]‡

NOTE.—*Now covered in definition of "creditor."

†Contained in general section, new § 2521.

‡Contained in new § 2490.

§ 2590 [2663]. Citation[s]; proceedings upon return thereof.

Every person, being a resident of the state *and competent*, who has a right to administration prior or equal to that of the petitioner [by reason of being entitled to take or share in the estate or fund,] and who has not renounced, must be cited upon a petition for letters of administration; *and where the petitioner is not entitled to share in the distribution of the estate there must also be cited all resident infants and adjudged incompetents who are so entitled.* The surrogate may, in his discretion, issue a citation to non-residents, or those who have renounced, or to any or all other persons interested in the estate. [whom he thinks proper to cite.] Where it is not necessary to cite any person, a decree, granting to the petitioner letters, may be made on presentation of the petition. [Where the surrogate is unable to ascertain, to his satisfaction, whether the decedent left, surviving him, any person entitled to succeed to his estate, or if it shall appear to the surrogate that the decedent left no heirs-at-law or next of kin, a citation must be issued directed generally to all creditors of, and persons interested in the estate, and also* to the attorney-general,† and the public administrator of the proper county]‡ [requiring them to show cause why administration should not be granted to the petitioner]. Any person who has a right to administration, prior or equal to that of the petitioner, may renounce his right by a written instrument, acknowledged, or proved, and *duly* certified [in like manner as a deed to be recorded in the county, or otherwise proved to the satisfaction of the surrogate;] which must be filed in the surrogate's office; *except that a public administrator or county treasurer may not renounce his right and may only be excused from acting as such upon his motion duly made and upon an order made and entered thereupon by the surrogate.* [Where a citation is issued, any creditor of the decedent, or any person interested in the personal estate, although not cited, may appear and make himself a party to the special proceeding, in like manner and with like effect, as a devisee or legatee, who is not cited on an application for probate.]‡‡ [On the return of a citation, issued as prescribed in this article, the surrogate must make such a decree in the premises as justice requires. . The decree may award admin-

istration to any party to the special proceeding who appears to be entitled thereto. The surrogate, in his discretion, may award administration without a personal examination of the persons to whom it is awarded.】

NOTE.— * Omitted as impracticable.

† New § 2524 now requires this in all cases.

‡ Omitted because by § 2588, public administrator is given prior right.

‡‡ A general section provides for this in all proceedings. New §§ 2511, 2524.

Last omitted portions unnecessary or incorporated in other sections. See §§ 2490, 2510.

§ 2591 [2664]. Administrator's bond.

【A person appointed administrator, b】Before letters are issued to an administrator he 【him,】 must file his official oath, and execute to the people of the state, and file with the surrogate, the joint and several bond of himself and two or more sureties, in a penalty fixed by the surrogate, not less than 【twice】 the value of the personal property of which the decedent died possessed and of the probable amount to be recovered by reason of any right of action, granted to an executor or administrator, by special provision of law, or by reason of a cause of action which existed in behalf of decedent; except that where the person or persons about to be appointed is or are entitled to the whole estate, the surrogate may dispense with a bond or fix the penalty at such sum as will adequately protect the rights of all creditors.* The sum to be fixed as the amount of the penalty must be ascertained by the surrogate, by the examination on oath of the applicant or any other person, or otherwise, as the surrogate thinks proper. The bond must be conditioned that the administrator will faithfully discharge the trust reposed in him as such and obey all lawful decrees and orders of the surrogate's court touching the administration of the estate committed to him.

【But where a right of action is granted to an executor or administrator by special provision of law, if it appears to be impracticable to give a bond sufficient to cover the probable amount to be recovered, the surrogate may, in his discretion, accept modified security, and issue letters limited to the prosecution of such action, but restraining the executor or administrator from a compromise of the action, and the enforcement of any judgment recovered therein, until the further order of the surrogate on additional further satisfactory security.】† In cases where the husband or wife and all the next of kin 【to the intestate】 of the decedent or all the persons entitled to share in the estate consent, the penalty of the bond need not exceed double the amount of the claims of the creditors, against the estate, presented to the surrogate, pursuant to a notice to be published 【twice】 once a week for four weeks in 【the official state paper and】 such newspaper or newspapers as the surrogate shall direct; 【in two newspapers published in the city of New York, and once a week for four weeks in two newspapers published in the county where the intestate usually resided and in the county where he died】], reciting an intention to apply for letters under this provision, and

notifying creditors to present their claims to the surrogate's court on or before a day to be fixed in such notice, which shall be at least thirty days after the first publication thereof; but no bond so given shall be for less than five thousand dollars; and such bond may be increased by order of the surrogate for cause shown. Pending such application, no temporary administrator shall be appointed, except on petition of such next of kin.††

NOTE.— * Gives discretion to reduce or dispense with bond in many cases where it is of no benefit.

† Limited letters portion in new section 2592.

Notice omission of "twice" in fixing the bond. On account of necessary payments of expenses and debts at once it would seem that a bond in the value of the property would be sufficient and would save estates much money.

†† The changes give the surrogate discretion as to the number and location of the papers, and make the section of practical value. Heretofore it was so expensive that it was seldom used.

§ 2592. Limited letters may be issued; bond.

Where a right of action is granted to an executor or administrator by special provision of law, or it is alleged that a cause of action existed in behalf of decedent, and it appears to be impracticable to give a bond sufficient to cover the probable amount to be recovered in the case of an executor, or such probable recovery and the existing personal estate in the case of an administrator, the surrogate may dispense with a bond, or fix the penalty at such sum as he shall deem sufficient, and issue letters which as to such cause of action shall be limited to the prosecution thereof, and restraining the executor or administrator from compromise of the action or the enforcement of any judgment recovered therein until the further order of the surrogate made upon filing satisfactory security.

NOTE.— Part of former § 2664 rewritten; § 2665 to be repealed.

§ 2593. County treasurer appointed administrator to qualify and have fees.

A county treasurer appointed administrator of an estate shall qualify in the manner prescribed in section 2591; shall be vested with all the powers and rights of other administrators and be subject to the same duties and obligations; and shall be allowed the same fees for his services as are now allowed by law to administrators, which fees shall be in addition to the salary and fees now allowed by law to such county treasurer. Such treasurer may employ an attorney to act for him as such administrator other than the one, if any, appointed to act as the county attorney or the official attorney of such treasurer.

NOTE.—This section in view of the amendment to former §§ 2660, 2663 (new §§ 2590, 2591), giving the county treasurer preference over creditors has been suggested by the state comptroller, who thinks that some responsible official like the county treasurer should be required to act in all cases. § 2666 to be repealed.

[§ 2667. Notice to state comptroller.

The surrogate must immediately transmit to the state comptroller a certified copy of all such letters granted by him to the county treasurer, the expense of which must be paid to him out of the state treasury, on the warrant of the comptroller.]

NOTE.—Inserted in new § 2489.

Sections 2665, 2666, 2667, 2668 concerning administration by county treasurer to be repealed. They were unnecessarily technical and complicated. He is now put upon same footing as any other administrator.

§ 2594 [2669]. Public administrator of Kings county.

The surrogate of the county of Kings shall, on or before the nineteenth day of October, nineteen hundred and eleven, and every five years thereafter — except as hereinafter provided — appoint a suitable person as public administrator of said county to hold office for the term of five years unless sooner removed for cause, the said term beginning on the nineteenth day of October, nineteen hundred and eleven. In case of a vacancy in said office by reason of death, resignation or otherwise said surrogate shall fill the same by appointing a suitable person as public administrator for the full term of five years from the date of such appointment and qualification. Before entering upon the performance of the duties of his office the person so appointed must take and subscribe before the county clerk, or a justice of the supreme court, the constitutional oath of office, and execute a bond with sureties to be approved by a justice of the supreme court, to the county of Kings, in a penal sum of fifty thousand dollars, conditioned for the faithful discharge of all the duties of his office, and that he will fully and correctly account for and pay over all moneys and property that may come into his hands as such public administrator, according to law, which bond must be filed with the clerk of the county. He shall be entitled to retain from all moneys or property of any intestate that come into his hands after deducting all actual and necessary expenses the same commissions as are now allowed by law to executors or administrators, and he shall receive a salary for his services to be fixed by the board of estimate and apportionment of the city of New York upon the recommendation of the surrogate of the county of Kings, the same to be raised and paid each year in the same manner as are other county charges. The public administrator shall not receive to his own use any fees or emoluments in addition to his salary, and he shall pay into the treasury of the city of New York all commissions and costs received by him from any source whatever; such payments shall be made monthly and shall be accompanied by a sworn statement in such form as the comptroller of the city of New York shall prescribe, showing in detail the costs and commissions received and allowed to him. A suitable office for said public administrator shall be provided for him in one of the county buildings in the county of Kings. The surrogate shall also appoint a counsel and a clerk to said public administrator, their salaries to be fixed by the board of estimate and ap-

portionment of the city of New York upon the recommendation of said surrogate and to be raised and paid each year in the same manner as are other county charges. He shall have the prior right and authority to collect, take charge of and administer upon the goods, chattels, personal property and debts of persons dying intestate, and for that purpose to maintain suits as such public administrator as any executor or administrator might by law in the following cases:

1. Whenever such person dies leaving any assets or effects in the county of Kings, and there is no widow, husband or next of kin entitled to a distributive share in the estate of such intestate. **[resident in the state,]** entitled, competent or willing to take out letters of administration on such estate.

2. Whenever assets or effects of any person dying intestate, after his death, come into the county of Kings and there is no such person entitled, competent or willing to take administration of the estate. In such cases intestacy is presumed until a will is proved and letters testamentary issued thereon. All provisions of law conferring jurisdiction, authority or power on, or otherwise relating to, the office of public administrator of the city of New York and to the office of public administrator in the several counties of the state, so far as applicable apply to and are conferred on the office hereby created. The surrogate of the county of Kings, in cases where now authorized by law to issue letters of temporary administration, may in his discretion issue letters of temporary administration to such administrator without further security than required by this section.

NOTE.—No change except in subd. 1, “Resident in the state” omitted as it has been found to work injustice.

§ 2595. Public administrator of Erie county.

The surrogate of the county of Erie shall, within ten days after the passage of this act, and every five years thereafter, except as hereinafter provided, appoint a suitable person as public administrator of and for said county, to take office immediately, and to hold office for the term of five years from the first day of January succeeding his appointment, unless sooner removed for cause.

In case of a vacancy in said office by reason of death, resignation or otherwise, said surrogate shall fill the same by appointing a suitable person as public administrator, to take office immediately upon his appointment and qualification, and hold for the term of five years from the first day of January succeeding his appointment, unless sooner removed for cause.

Before entering upon the performance of the duties of his office, the person so appointed shall take and subscribe before the county clerk, or a justice of the supreme court, the constitutional oath of office, and execute a bond, with sufficient sureties, to be approved by a justice of the supreme court to the county of Erie, in the penal sum of ten thousand dollars, conditioned for the faithful discharge of the duties of his office, and that he will fully and correctly account for and pay over all moneys and property that may come into his hands as such public administrator, according to law, which bond shall be filed with the clerk of said county.

Said public administrator shall be entitled to retain from all moneys or property that come into his hands, after deducting all actual and necessary expenses, the same commissions as are now allowed by law to executors or administrators, and all provisions of law conferring jurisdiction, authority or power on, or otherwise relating to, the office of public administrator of the city of New York, and to the office of public administrator of the county of Kings, and in the several counties of the state apply to and are conferred on the office hereby created.

The surrogate of the county of Erie, where now authorized by law to issue letters of temporary administration, may, in his discretion, issue letters of temporary administration to such public administrator, without further security than required by this section.

NOTE.—In some of the large counties it has been found necessary to have some special laws not applicable to every county.

§ 2596 [2670]. When and how temporary administrators may be appointed.

On the application of a creditor, or a person interested in the estate, the surrogate may, in his discretion, issue to one or more persons, competent and qualified to serve as executors, letters of temporary administration, in either of the following cases:

1. When for any cause, delay necessarily occurs in the granting of letters testamentary or letters of administration, or in probating a will.

An appointment of a temporary administrator, in a case specified in *this* subdivision [first] must be made by an order *if a proceeding for grant of letters of administration or probate of a will is then pending*. At least ten days' notice of the application for such an order must be given to each party to the proceeding who has appeared, unless the surrogate is satisfied by proof that the safety of the estate requires the notice to be shortened, in which case he may shorten the time of service to not less than two days. *If no proceeding is pending, application shall be by petition and a citation shall issue in the usual manner directed to the persons entitled to letters of administration in a case where no will is known to exist; or to the executor or executors, trustee or trustees if any, and such legatees and devisees as the surrogate may direct to be cited, in cases where a will has been filed.*

2. Where a person of whose estate the surrogate would have jurisdiction, if he [was] *were* shown to be dead, disappears or is missing, so that, after diligent search, his abode cannot be ascertained, and under circumstances which afford reasonable ground to believe either that he is dead, or that he has become a lunatic, or that he has been secreted, confined, or otherwise unlawfully made away with; and the appointment of a temporary administrator is necessary for the protection of his property, and the rights of creditors or of those who will be interested in the estate, if it is found that he is dead.

Application for such an appointment, in a case specified in *this* subdivision [second,] must be made by petition, in like manner as where an application is made for administration in case of intestacy; and the proceedings are the same as prescribed in [article fourth of] this title, relating to such last-mentioned application.

Such an application for the appointment of a temporary administrator *in either case* may also be made, with like effect, and in like manner, as if made by a creditor, by the county treasurer of

the county where the person whose estate is in question last resided; or, if he was not a resident of the state, of the county where any of his property, real or personal, is situated. A temporary administrator must qualify as prescribed in [article fourth of this title,] *section 2591 of this chapter* with respect to an administrator-in-chief.

NOTE.—Last sentence found in § 2671, which will be repealed.

The amendments make the practice more definite and certain.

§ 2597 [2672]. General powers, et cetera, of temporary administrator.

A temporary administrator, appointed as prescribed in this article, has authority to take into his possession personal property; to secure and preserve it; and to collect choses in action; and, for either of these purposes, he may maintain any action or special proceeding. An action may be maintained against him, by leave of the surrogate, upon a debt of the decedent, or of the absentee whom he represents, *or upon any cause of action to which the decedent or absentee would have been a party* in like manner and with like effect as if he [was] *were* an administrator-in-chief. The surrogate may, by an order made upon at least ten days' notice to all the parties who have appeared in the special proceeding, authorize the temporary administrator to sell, after appraisal, such personal property, specifying it, of the decedent, or of the absentee whom he represents, as it appears to be necessary to sell, for the benefit of the estate; or, if it appears that the safety of the estate requires the notice to be shortened, the surrogate may shorten the notice to not less than two days. The surrogate may, also, by order, authorize him to pay funeral expenses, or any expenses of the administration of his trust, or stenographer's or referee's fees on contest of a will or administration; and he may also direct the payment of a legacy or other pecuniary provision under a will or a distributive share or just proportionate part thereof, according to sections 2687, 2688 [two thousand seven hundred and nineteen] of this chapter as though he were an executor or administrator.

NOTE.—The section referred to in the last part never has been applicable. Scope of section extended by new matter to bring an action.

§ 2598 [2673]. Id.; as to requiring creditors to present claims.

[After six months have elapsed, since letters were issued to] A temporary administrator, appointed upon the estate of either a decedent or an absentee, **[he]** has the same power, as an administrator-in-chief, to publish a notice requiring creditors of the decedent or absentee to exhibit their demands to him. The publication thereof **has the same effect, with respect to the temporary administrator, and also an executor or administrator, subsequently appointed upon the same estate, as if the temporary administrator [was] were the executor or an administrator-in-chief, and the person to whom the subsequent letters are issued [was] were his successor.**

NOTE.—As often the purpose of appointing a temporary administrator is to pay debts, advertisement for creditors should be begun at once.

§ 2599 [2674]. Id.; as to paying debts.

[After a year has elapsed, since letters were issued to] *At any time after the completion of the publication of the notice to creditors by a temporary administrator, [appointed under the estate, of either a decedent or an absentee,] the surrogate may, [upon the application of the temporary administrator, and] upon proof, to his satisfaction, that the assets exceed the debts, make an order, permitting the [applicant] temporary administrator to pay the whole or any part of a debt, due to a creditor of the decedent or absentee; or, upon the petition of [such] a creditor, [he may issue a citation] a citation may issue to the temporary administrator, requiring him to show cause why he should not pay the petitioner's debt. When such a petition is presented, the proceedings are, in all respects, the same as where a creditor presents a petition, praying for a decree directing an executor or administrator to pay his debt, as prescribed in [article first of title fourth of] this chapter.*

NOTE.—In the first part, change made reducing the one year period of delay, as the purpose of the appointment might have been to pay debts.

§ 2600 [2675]. *Id.*; as to real property.

When a temporary administrator is appointed and a proceeding is pending for the probate of a will of real property, or there is a delay in the granting of letters testamentary or administration on such a will or in the qualification of a trustee named therein, the order appointing him may confer upon him authority to take possession of real property, in the same or another county, which is affected by the will, and to receive the rents and profits thereof. The surrogate may, by an order, confer upon him authority to lease any or all of the real property, for a term not exceeding one year; or to do any other act with respect thereto, except to sell it, which is, in the surrogate's opinion, necessary for the execution of the will, or the preservation or benefit of the real property. For either of these purposes, he may maintain or defend any action or special proceeding.

§ 2601 [2676]. *Special powers of temporary administrator of absentee; may provide for family.*

A temporary administrator, appointed upon the estate of an absentee, has all the powers and authority enumerated in the last section, with respect to the real property of the absentee. His acts, done in pursuance of that authority, bind the absentee, if [he is] living, or his heir or devisee, if he [is] be dead, in the same manner as the acts of an executor or administrator bind his successor.

[§ 2677. Temporary administrator of absentee may provide for family.]

Upon proof, satisfactory to the surrogate, that the wife or any infant child of an absentee upon whose estate a temporary administrator has been appointed, is in such circumstances as to require provision to be made out of the estate for his or her maintenance, clothing, or education, the surrogate may make an order, directing the temporary administrator to make such provision therefor as the surrogate deems proper, out of any personal property in his hands, not needed for the payment of debts.

NOTE.—As these sections relate to the same matter they are consolidated.

[§ 2679. Proceedings where he neglects to deposit.

If a temporary administrator neglects to make a deposit, as prescribed in the last section, within the time therein limited, the surrogate must, upon the application of a creditor or person interested in the estate, accompanied with satisfactory proof of the neglect, make an order, directing him to do so forthwith, or to show cause why a warrant of attachment should not issue against him. In the county of New York, the order must be made returnable three days after issuing it; and it must be served upon the temporary administrator, at least two days before the return day thereof, either personally or by leaving a copy thereof within the state, at his dwelling place, or his office for the regular transaction of business in person; or, if it cannot be served in either of these methods, by serving it in such manner, as the surrogate directs. In any other county, it must be made returnable within a reasonable time, not exceeding fifteen days after issuing it; and it must be served, in like manner, at least ten days before the return day thereof.]

NOTE.— Repeal. It does not seem to be necessary to direct when and where a temporary administrator shall deposit money. He has given his bond and he, and not the court, should assume the responsibility of his acts.

§ 2602 [2681]. Notices required by this article; how given.

A notice required to be given, as prescribed in this article, to a party other than the temporary administrator, must be served upon the attorney of the party to whom notice is to be given; or, if he has not appeared by an attorney, upon the party, in like manner as a notice may be served upon an attorney in a civil action, brought in the supreme court. But where the attorney or party to be served does not reside in the surrogate's county; or where the attorney for a party has died, and no other appearance for that party has been filed in the surrogate's office; the surrogate may, by order, dispense with notice to that party; or may require notice to be given to him in any manner which he thinks proper.

NOTE.— No change in this section.

[§ 2682. When time to run for or against the estate.

Section two thousand five hundred and ninety-three of this act does not affect any proceeding in favor of or against an executor, or an administrator-in-chief, where a temporary administrator of the same estate has been appointed, except as otherwise prescribed in section two thousand six hundred and seventy-three and section two thousand six hundred and seventy-four of this act.]

NOTE.— Repeal § 2683. “Application of this chapter to collectors,” etc., being no longer useful.

Repeal this section since by amending §§ 2673, 2674 (new §§ 2598, 2599), a temporary administrator advertises for creditors as any other representative.

§ 2603 [2643]. Letters of administration with will annexed; when and to whom *granted*.

If no person is named as executor in the will, or selected by virtue of a power contained therein; or if, at any time, by reason of death, incompetency adjudged by the surrogate, renunciation in either of the methods prescribed in sections two thousand six hundred and thirty-nine and two thousand six hundred and forty-two of this act, or revocation of letters, there is no executor, or administrator with the will annexed, qualified to act; the surrogate must, upon the application of a creditor of the decedent, or a person interested in the estate of the decedent, or having a lien upon any real property upon which the decedent's estate has a lien, and upon such notice to the other creditors and persons interested in the estate as the surrogate deems proper, issue letters of administration with the will annexed, as follows:

1. *To an executor or administrator of a sole legatee and devisee named in a will.*

2. To one or more of the residuary legatees, who are qualified to act as administrators. [If any one of such legatees who would otherwise be so entitled is a minor, administration shall be granted to his guardian, if competent.] A corporation which is a residuary legatee shall be qualified to act as such administrator, although not specially authorized by its charter or any provision of law.

3. If there is no such residuary legatee [or guardian,] or none who will accept, then to one or more of the principal or specified legatees so qualified. [If any one of such legatees who would be otherwise so entitled is a minor, administration shall be granted to his guardian, if competent.]

4. If there is no such legatee [or guardian,] or none who will accept, then to the husband, or wife, or to one or more of the next of kin, or to one or more of the heirs or devisees, so qualified.

If any of the above persons who would otherwise be entitled to letters is an infant or an adjudged incompetent, administration may be granted to his guardian or committee as the case may be, unless there is an adult or competent person equally entitled who will accept the same.

5. If there is no qualified person, entitled under the foregoing subdivisions, who will accept, then to the public administrator, and if there be none for the county, to the treasurer of the county, and if he be relieved from serving, to any creditor or competent person designated by the surrogate. [One or more of the creditors who

are so qualified, except that in the counties of New York and Kings the public administrator shall have preference after the next of kin, over the creditors and all other persons.】

【5. If there is no qualified creditor who will accept, then to any proper person designated by the surrogate.】

Except as to the right of priority as provided in this section, the provisions of section 2588 of this chapter apply to an application for letters of administration with the will annexed.

NOTE.—Subd. 1 taken from former § 2660. New matter in subd. 4 provides for omitting reference to guardian in other portions. Whole section made to work with new § 2588.

§ 2604 [2644]. Id.; renunciation or exclusion of persons having prior right.

Where a person applies for letters of administration with the will annexed, as prescribed in the last section, and another person has a right to the administration, prior to that of the petitioner, 【the application must be made by petition】 *a citation must issue accordingly unless a 【written】 renunciation acknowledged or proved and duly certified of every person having such a prior right is filed. 【with the surrogate, and the execution thereof is proved to his satisfaction.】 The surrogate may in his discretion issue a citation to a person equally entitled. 【The petition must pray that all the persons having a prior right who have not renounced, be cited to show cause, why administration should not be granted to the petitioner.】** The proceedings thereupon are the same as upon an application for administration upon the estate of an intestate.

NOTE.—Every proceeding is required to have petition. On probate of a will having no executor, this matter is taken care of in petition for probate.

* Contained in general section, new § 2521.

Preserves the former right of a person equally entitled to have letters without citing others equally entitled, which has been found to work well.

§ 2605 [2645]. *How executor or administrator with the will annexed [to] qualify[ies].*

An executor[,], from whom a bond is required[,], as prescribed in this [article,] *chapter*, or an administrator with the will annexed, must, before letters are issued to him, qualify as prescribed by law[,], with respect to an administrator upon the estate of an intestate; and the provisions of *section 2591 of this chapter* [article fourth of this title], with respect to the bond to be given by the administrator of an intestate, apply to a bond given pursuant to this section; except that, in fixing the penalty thereof, the surrogate must take into consideration the value of the real property, or of the proceeds thereof, which may come to the hands of the executor or administrator, by virtue of any provision contained in the will, *and also how much of the estate, if any, has already been administered.*

NOTE.—Following § 2693 which says bond to be given to cover unadministered estate. New § 2606.

§ 2606. *Appointment of administrator de bonis non.*

[§ 2693. In other cases successor to be appointed.]

When [all the executors or] all the administrators, to whom letters have been issued, die or become incapable, [as prescribed in the last section] or the letters are revoked as to all of them, the surrogate must grant letters of administration *de bonis non* to one or more persons as their successors, in like manner as if the former letters had not been issued; and the proceedings to procure the grant of such letters are the same, and the same security shall be required, as *upon an original application*; [in a case of intestacy] except that the surrogate may, in his discretion, in case where the estate has been partially administered upon by the former representative or representatives, fix as the penalty of the bond to be given by such successor or successors, a sum not less than [twice] the value of the assets of the estate remaining unadministered.

NOTE.—The part applying to administrator *cum testamento annexo* is now in substance in § 2643 as amended. New § 2603. This change provides directly for administrator *de bonis non* which has never been specifically provided for.

ARTICLE SECOND

Production and probate of wills; objections and their trial; construction of wills; qualification of executor; grant of ancillary letters testamentary and of administration; qualification of testamentary trustees; security from testamentary trustees and executors acting as trustees.

§ 2607 [2621-a]. *Petition to compel production of will.*

[A person claiming to be interested in the estate of a decedent may present a petition under oath to a surrogate's court, against any one or more persons suspected of destroying, retaining, concealing or conspiring with others to destroy, retain or conceal a will or testamentary instrument of the decedent, and**]** *Whenever it shall appear by petition of any person claiming to be interested in the estate of a decedent, that there is reasonable ground to believe that any person has destroyed, retained, concealed, or is conspiring with others to destroy, retain or conceal a will or testamentary instrument of a decedent, or has any knowledge as to such facts, the court must make an order requiring the respondent to attend and be examined in the premises, and may in such order or otherwise in the proceeding require the production of any will or testamentary instrument. Service thereof must be made by delivery of a certified copy thereof to the person or persons named therein and the payment or tender to each of the sum required by law to be paid or tendered to a witness who is subpoenaed to attend a trial in surrogate's court. [thereupon must issue a citation, directed to such persons, ordering the production of the will or testamentary instrument or show cause why it should not be produced. On the return of the citation, the court may order the suspected person or persons, to appear before it and be examined on oath upon the matter of the petition. If any person cited fails to appear and submit to examination or refuses to answer such questions as are lawfully propounded to him, or to obey any lawful order of the court, he may be committed to jail as for a contempt of court until he submits to its order. The court may award costs as in a special proceeding, to be paid by either party.]*

NOTE.— This section rewritten in an effort to make the section useful for the purpose for which it was intended.

§ 2608 [2705]. [Probate of foreign wills in this state.]
Probate of wills of citizens of the United States domiciled in
the United Kingdom of Great Britain and Ireland.

The last will and testament of any person being a citizen of the United States, or, if female, whose father or husband previously shall have declared his intention to become such citizen, who shall have died, or hereafter shall die, while domiciled or resident within the United Kingdom of Great Britain and Ireland, or any of its dependencies, which shall affect property within this state and which shall have been duly proven within such foreign jurisdiction, and there admitted to probate, shall be admitted to probate in any county of this state wherein shall be any property affected thereby, upon filing in the office of the surrogate of such county, and there recording, a copy of such last will and testament, certified under the hand and seal of a consul-general of the United States resident within such foreign jurisdiction, together with the proofs of the said last will and testament, made and accepted within such foreign jurisdiction, certified in like manner. [; and 1] Letters testamentary on [of] such last will and testament shall be issued to the persons named therein to be the executors and trustees, or either thereof, or to those of them who, prior to the issuance of such letters, by formal renunciation, duly acknowledged or proven, *and duly certified* [in the manner prescribed by law], shall not have renounced the trust therein devolved upon them; provided, that before any such will shall be admitted to probate in any county of this state, the same proceedings shall be had in the surrogate's court of the proper county as are required by law upon the proof of the last will and testament of a resident of this state who shall have died therein; except that there need be cited upon such probate proceedings only the beneficiaries named in such will.

[§ 2614. Who may propound will.

A person designated in a will as executor, devisee, or legatee or any person interested in the estate, or a creditor of the decedent, or any party to an action brought or about to be brought, and interested in the subject thereof, in which action the decedent, if living, would be a proper party, may present to the surrogate's court having jurisdiction, a written petition, duly verified, describing the will, setting forth the facts, upon which the jurisdiction of the court to grant probate thereof depends, and praying that the will may be proved, and that the persons specified in the next section may be cited to attend the probate thereof. Upon the presentation of such a petition, the surrogate must issue a citation accordingly.]

NOTE.—Section rewritten into new section following.

What wills may be proved may be found in Dec. Est. L., §§ 23–25.

§ 2609. Who may propound will; contents of petition.

A petition for the probate of a will may be presented by:

Any person designated in the will as executor, devisee, legatee, trustee or testamentary guardian;

A creditor of the decedent, or any other person interested in the estate;

Any party to an action brought, or about to be brought, in which action the decedent, if living, would be a proper party.

Such petition in addition to the general allegations contained in section 2521 of this chapter shall describe such will, and any other will of the same testator on file in the surrogate's office, and set forth the names and post office addresses, so far as they can be obtained with due diligence, of all the devisees, legatees and beneficiaries named in said will, or in any other will so filed.

NOTE.—See general section on contents of petition. New § 2521.

Provision made for bringing up any other will filed to avoid separate proceedings.

§ 2610 [2615]. Who to be cited thereupon; contents of citation.

The following persons must be cited upon a petition, presented as prescribed in the last section:

If the will relates exclusively to real property, the husband or wife, if any, and all the heirs of the testator.

If the will relates exclusively to personal property, the husband or wife, if any, and all the next of kin of the testator.

If the will relates to both real and personal property, the husband or wife, if any, and all the heirs, and all the next of kin of the testator.

[Any] *In every case, each person designated in the will as executor, trustee or testamentary guardian, and each person named as executor, testamentary trustee or guardian, or beneficiary in any other will of the same testator filed in the surrogate's office.*

In addition to the general contents contained in sections 2523 and 2524 of this chapter, the citation must also set forth the name of the person by whom the will is propounded; whether the will relates exclusively to real property, or to personal property, or to both; and if the will is nuncupative, that fact.

NOTE.—Section 2616 consolidated with § 2615. The other matter in § 2616 is in general section on citation (new §§ 2523, 2524).

[§ 2616. [Am'd, 1911.] Contents of citation.

The citation must set forth the name of the decedent, and of the person by whom the will is propounded; and it must state whether the will relates, or purports to relate, exclusively to real property, or personal property, or to both. Where the will propounded was nuncupative, that fact must be stated in the citation. Where the surrogate is unable to ascertain to his satisfaction, whether the decedent left surviving him, any person, who would be entitled to the property affected by the will, if the decedent had died intestate; or if it shall appear to the surrogate that the decedent left no known heirs-at-law or next of kin, the citation must be directed, where the will relates to real property, to the attorney-general; where it relates to personal property, to the attorney-general and to the public administrator, who would have been entitled to administration, if the decedent had died intestate.]

NOTE.—Incorporated in new § 2610.

[§ 2617. Persons not cited may appear.

Any person, although not cited, who is named as a devisee or legatee in the will propounded, or as executor, trustee, devisee or legatee in any other paper purporting to be a will of the decedent, or who is otherwise interested in sustaining or defeating the will, may appear, and, at his election, support or oppose the application. A person so appearing becomes a party to the special proceeding. But this section does not affect a right or interest of such a person unless he so becomes a party.]* [And in case the will propounded for probate is opposed, due and timely notice of the hearing of the objections to the will shall be given, in such manner as the surrogate shall direct, to all persons in being, who would take any interest in any property under the provisions of the will, and to the executor or executors, trustee or trustees named therein, if any, who have not appeared in the proceeding, and any decree in the proceeding shall not affect the right or interest of any such person unless he shall be so notified.]**

NOTE.— This section to be repealed. Its contents distributed as follows:

* Contained in new § 2511.

** Rewritten into new section 2618.

§ 2611 [2618]. Witnesses to be examined; proof required.

【Upon the return of the citation, the surrogate must cause the witnesses to be examined before him. In a case where there is no contest and no objection or if no objections to the probate are filed and if all the parties are of full age and of sound mind or if the special guardian attends before the surrogate the surrogate may in his discretion order that a witness who is in the state but not in the county where the will is offered for probate or an adjoining county, be examined before the surrogate of the county in which the witness shall be, in which case the original will shall be attached to the order and transmitted to the surrogate of the county where the proofs are ordered to be taken and the proofs and said original will shall be returned to the surrogate before whom the proceeding is pending.】 Before a written will is admitted to probate, two, at least, of the subscribing witnesses must be produced and examined, if so many are within the state, and competent and able to testify. Before a nuncupative will is admitted to probate, its execution and the tenor thereof must be proved by at least two witnesses. The proofs must be reduced to writing. *Any party to the proceeding may request the oral examination of the subscribing witnesses to the will and may examine such witnesses and any other witness produced by the proponent before the surrogate, without first filing objections to the probate of such will.* 【Any party who contests the probate of a will, may, by a notice filed with the surrogate at any time before the proofs are closed, require the examination of all the subscribing witnesses to a written will, or of any other witness, whose testimony the surrogate is satisfied may be material; in which case, all such witnesses, who are within the state, and competent and able to testify, must be so examined.】

NOTE.—The part marked for repeal in the first part of the section was inserted this year, but on account of our proposed amendment of § 2540 (new §§ 2543, 2544) it need not be inserted here.

This section provides for full oral or cross examination without filing objections. This often averts a contest. Provision for “surrogates witness” repealed. See § 2617, note.

§ 2612 [2619]. *Absent, etc., witnesses to be accounted for; dispensing with testimony; commission; proof of handwriting.*

*Where one subscribing witness has been examined, [I]f the death, absence from the state, lunacy, or other incompetency of any other subscribing witness[,] required to be examined as prescribed in this or the last section, or proof that such witness cannot, after due diligence, be found within the state or cannot be examined by reason of his physical or mental condition [or elsewhere, must] may be shown[,] by affidavit or other competent evidence, to the satisfaction of the surrogate, [before dispensing with his testimony] and when so shown the surrogate may by an order entered in the minutes or recited in the decree dispense with his testimony, and in a proper case admit such will to probate without the testimony of such subscribing witness; or in a case where the witness is absent from the state and it is shown that his testimony can be obtained with reasonable diligence, the surrogate may in his discretion, and shall upon the demand of any party, require the testimony of such witness to be taken by commission. [Where a witness, being within the state, is disabled from attending by reason of age, sickness or infirmity, his disability must be shown in like manner; and in that case, the testimony of the witness, where it is required, and he is able to testify, must be taken in the manner prescribed by law and produced before the surrogate, as part of the proofs.]**

[§ 2620. Proof of handwriting.]

If all the subscribing witnesses to a written will are, [or if a subscribing witness, whose testimony is required, is] dead, or are incompetent by reason of lunacy or otherwise, to testify or unable to testify; [or if such a subscribing witness is absent from the state;]* or if [such] a subscribing witness has forgotten the occurrence, or testifies against the execution of the will or was not present with the other witness at the execution of the will; the will may nevertheless be established, upon proof of the handwriting of the testator, and of the subscribing witnesses, and also of such other circumstances as would be sufficient to prove the will upon the trial of an action.*

NOTE.— * Provided for in new §§ 2543, 2544. Now the procedure for taking testimony of witnesses who can not appear, and of witnesses dead or incompetent to testify, is separated and not mingled in different sections.

Part of former § 2620 added. Where one witness is alive and sworn, no proof of handwriting is necessary, as his testimony is better than opinion evidence.

[§ 2620. Proof of handwriting.]

****** [Where a subscribing witness is absent from the state, upon application of either party, the surrogate shall cause the testimony of such witness to be taken by commission, when it is made to appear that by due diligence such testimony may be obtained.] **†** [Where a written will is proved, as prescribed in this section, it must be filed and remain in the surrogate's office. But when it shall be shown, by affidavit or otherwise, to the satisfaction of the surrogate, that the decedent left real or personal property in another state or territory of the United States or in a foreign country, and that the laws of such state, territory or country require the production of the original will before the provisions thereof become effective, the surrogate may, at any time after probate, and upon such notice to the parties interested in the estate as he may think proper, cause any original will remaining on file in his office to be sent by post or otherwise to any court which, or to any officer of such state, territory or country who, under the laws thereof, is empowered to receive the same for probate, or may deliver such will to any person interested in the probate thereof in such state, territory or country, or to his representative, upon such terms as he shall think proper for the protection of other parties interested in the estate.] **‡** [Where in any matter before the surrogate or in a surrogate's court the testimony of any witness shall be taken by or on commission, the same, together with the commission on which it is taken, shall be duly filed in the office of the surrogate but need not be recorded. The testimony or other proceeding duly taken to be used before the surrogate or surrogate's court, by a stenographer, shall be filed and need not be recorded.] **§**

NOTE.— * Found in § 2619. New § 2612.

****** Added to § 2612.

† Provision for commission put into new § 2612.

‡ Transferred to new § 2620.

§ Matter added to new § 2547.

Section to be repealed.

§ 2613 [2621]. Proof of lost or destroyed will.

A lost or destroyed will can be admitted to probate in a surrogate's court, but only in a case where a judgment establishing the will could be rendered by the supreme court, as prescribed in section 1865 [eighteen hundred and sixty-five] of this act.

§ 2614 [2622]. Probate not allowed, unless surrogate satisfied, etc.

Before admitting a will to probate, the surrogate must inquire particularly into all the facts and circumstances, and must be satisfied with the genuineness of the will, and the validity of its execution. [Before admitting a written will to probate, the surrogate may, in his discretion, require proof of the circumstances attending the execution, the delivery and the possession thereof, or any of them, to be made by the affidavit, or the testimony, at the hearing, of the person who received the will from the testator, if he can be produced, and, also, of the person presenting it for probate.]*

[§ 2623. Will; when sufficiently proved.]

If it appears to the surrogate that the will was duly executed; and that the testator, at the time of executing it, was in all respects competent to make a will and not under restraint; it must be admitted to probate as a will valid to pass real property, or personal property, or both, as the surrogate determines, and the petition and citation require, and must be recorded accordingly. The decree admitting it to probate must state whether the probate was or was not contested.

NOTE.—* This sentence is no more than a statement of some evidence the surrogate may require. §§ 2622, 2623 combined.

§ 2615. Construction of will, how obtained.

In executor, administrator with the will annexed, or any person interested in obtaining a determination as to the validity, construction or effect of any disposition of property contained in a will, may present to the surrogate's court in which such will was probated, a petition setting forth the facts which show his interest, the names and post-office addresses of the other parties interested, and the particular portion of such will concerning which he requests the determination of the court.

If the surrogate entertains the application, a citation shall issue to all persons interested in the question to be presented, to show cause why such determination should not be made. On the return of the citation the surrogate shall make such decree as justice requires.

[§ 2624. Validity and construction of testamentary provisions.]

[But i] *If a party expressly puts in issue in a proceeding for the probate of a will [before the surrogate,] the validity, construction, or effect of any disposition of property, contained in [a] such will [of a resident of the state, executed within the state], the surrogate may [must] determine the question, upon rendering a decree, after notice given in such manner as the surrogate directs to all persons interested who do not appear on such application in person or by attorney; or, unless the decree refuses to admit the will to probate, by reason of a failure to prove any of the matters specified in [the last] section 2614, may admit the will to probate and reserve the questions [of construction of efforts] so raised for future consideration and decree.*

NOTE.—General jurisdiction to construe a will given, either in a special proceeding for that purpose, or in a pending proceeding, including probate.

Former § 2624 consolidated with this new section.

Heretofore it would be necessary to bring an action for construction in most cases.

§ 2616. Notice of probate to legatees and devisees.

Before letters are issued, there shall be filed in the surrogate's court a written notice, entitled in the proceeding, stating the name of the testator, that his last will and testament has been offered for probate, or probated, as the case may be, and the name and post-office address of the proponent, and of each and every legatee, devisee or other beneficiary, as set forth in the petition, who has not been cited or has not appeared or waived citation, with proof by affidavit of the mailing of a copy of such notice to each of said beneficiaries.

NOTE.—The purpose of this section is to give persons interested who are not next-of-kin or heirs notice that they are interested in the will. To require them to be cited would in many cases make large unnecessary expense. This notice is not jurisdictional. It is feared that some legatees lose their legacies because they never have notice of the legacy and there is no judicial settlement of the estate.

See new § 2618 where same notice is used in case of contest.

[§ 2625. Surrogate's decision on probate.

A decree admitting a will of real or personal property, or both, to probate is conclusive as an adjudication of the validity of the will, and of the questions determined under section twenty-six hundred and twenty-four of this act, except as in this chapter otherwise provided.]

New § 2550 on force and effect of all decrees makes this unnecessary.

§ 2617. Who may file objections to the probate of an alleged will; jury trial.

Any person interested in the event as devisee, legatee or otherwise, in a will or codicil offered for probate; or interested as heir-at-law, next of kin, or otherwise, in any property, any portion of which is disposed of or affected, or any portion of which is attempted to be disposed of or affected, by a will or codicil offered for probate; or is interested as devisee, legatee, executor, trustee or testamentary guardian in any other will or codicil alleged to have been made by the same testator and not duly revoked by him; may file objections to any will or codicil so offered for probate.

Such objections must be filed at or before the close of the testimony taken before the surrogate on behalf of the proponent, or at such subsequent time as the surrogate may direct, and if a jury trial of any issue is desired the same shall be demanded in the objections.

NOTE.—Notice in new § 2611, provision for oral or cross examination for laying foundation for objections. The unfair requirement that the proponent shall produce practically all the witnesses a contestant wants to examine provided for in former § 2618 (new § 2611), is repealed.

§ 2618. Notice to legatees and devisees of objections filed.

Whenever objections are filed to the probate of a will, the proponent shall file the notice specified in section 2616 and serve the same on each of the parties therein named, and upon any other persons directed by the surrogate to be notified, in such manner and within such time as the surrogate shall direct, which notice shall have the additional statement included in or endorsed thereon that objections have been filed to the probate of such will and that the same will be heard on a day or at a term of court therein stated. Proof of due service of such notice shall be made and filed in the surrogate's office, and any decree in the proceeding shall not affect the right or interest of any such person unless he shall have been so notified.

NOTE.—Covers requirement for notice in case of contest.

The former section (2617) did not require a citation and the consequent acquiring of jurisdiction by the regular method, although that is common practice.

§ 2619. Proceedings upon jury trial of contested probate.

Upon the trial before the court and a jury of the objections filed to the probate of a will, or codicil, or either, the verdict of the jury or any order or decision of the judge holding the court shall be entered in the minutes of the court; and if the trial was not held in the surrogate's court, such verdict, order or decision shall be certified by the clerk of the court to the surrogate's court, whereupon the surrogate shall enter a final decree accordingly,

NOTE.—Section 2653-a to be repealed.

The plan which enables us to do away with § 2653-a and also with any other trial of a will is as follows:

General jurisdiction enlarged, new § 2510.

Force and effect of decree, new § 2550.

General provisions for jury trial, new §§ 2538, 2539.

Special provisions on probate, new § 2617.

Upon the return of citation any party may have a full examination of the subscribing witnesses and of any other witness necessary to be examined by the proponent to satisfy the surrogate, which witnesses may be cross examined. This is a right every one should have, and it often ends the contest. If any one desires to become a contestant he must then file objections, and if he desires a jury trial, demand it. The trial by jury is then had either in surrogate's court or some other, and the verdict is made a part of the proceedings in surrogate's court.

The final decree is conclusive against everybody who was a party. If a jury trial is not demanded it is waived, and the decree in that case is also conclusive.

It is impossible to have a decree in surrogate's court without an opportunity for a trial, and to give that to obtain a presumption before the jury would retain the two trials which it is our object to avoid.

The provision for security for costs after one disagreement will tend to end baseless litigation. New § 2750.

[§ 2653-a. Determining validity of a will.

Any person interested as devisee, legatee or otherwise, in a will or codicil admitted to probate in this state as provided by the code of civil procedure, or any person interested as heir-at-law, next of kin or otherwise in any estate, any portion of which is disposed of, or affected, or any portion of which is attempted to be disposed of, or affected, by a will or codicil admitted to probate in this state, as provided by the code of civil procedure, within two years prior to the passage of this act, or any heir-at-law or next of kin of the testator making such will, may cause the validity or invalidity of the probate thereof to be determined in an action in the supreme court for the county in which such probate was had. All the devisees, legatees and heirs of the testator and other interested persons, including the executor or administrator, must be parties to the action. Upon the completion of service of all parties, the plaintiff shall forthwith file the summons and complaint in the office of the clerk of the court in which said action is begun and the clerk thereof shall forthwith certify to the clerk of the surrogate's court in which the will has been admitted to probate, the fact that an action to determine the validity of the probate of such will has been commenced, and on receipt of such certificate by the surrogate's court, the surrogate shall forthwith transmit to the court in which such action has been begun a copy of the will, testimony and all papers relating thereto, and a copy of the decree of probate, attaching the same together, and certifying the same under the seal of the court. The issue of the pleadings in such action shall be confined to the question of whether the writing produced is or is not the last will and codicil of the testator or either. It shall be tried by a jury and the verdict thereon shall be conclusive as to the real or personal property, unless a new trial be granted or the judgment thereon be reversed or vacated. On the trial of such issue the decree of the surrogate admitting the will or codicil to probate shall be prima facie evidence of the due attestation, execution and validity of such will or codicil. A certified copy of the testimony of such of the witnesses examined upon the probate, as are out of the jurisdiction of the court, dead, or have become incompetent since the probate, shall be admitted in evidence on the trial. The party sustaining the will shall be entitled to open and close the evidence and argument. He shall offer the will in probate and rest. The other party

shall then offer his evidence. The party sustaining the will shall then offer his other evidence and rebutting testimony may be offered as in other cases. If all the defendants make default in pleading, or if the answers served in said action raise no issues, then the plaintiff may enter judgment as provided in article two of chapter eleven of the code of civil procedure in the case of similar defaults in other actions. If the judgment to be entered in an action brought under this section is that the writing produced is the last will and codicil, or either of the testator, said judgment shall also provide that all parties to said action, and all persons claiming under them subsequently to the commencement of the said action, be enjoined from bringing or maintaining any action or proceeding, or from interposing or maintaining a defense in any action or proceeding based upon a claim that such writing is not the last will or codicil, or either, of the testator. Any judgment heretofore entered under this section, determining that the writing produced is the last will and codicil, or either, of the testator, shall, upon application of any party to said action, or any person claiming through or under them, and upon notice to such persons as the court at special term shall direct, be amended by such court so as to enjoin all parties to said action, and all persons claiming under the parties to said action subsequently to the commencement thereof, from bringing or maintaining any action or proceeding impeaching the validity of the probate of the said will and codicil, or either of them, or based upon a claim that such writing is not the last will and codicil, or either, of the testator, and from setting up or maintaining such impeachment or claim by way of answer in any action or proceeding. When final judgment shall have been entered in such action, a copy thereof shall be certified and transmitted to the clerk of the surrogate's court in which such will was admitted to probate. The action brought as herein provided shall be commenced within two years after the will or codicil has been admitted to probate but persons within the age of minority, of unsound mind, imprisoned, or absent from the state, may bring such action two years after such disability has been removed.】

NOTE.—To be repealed. See note to new § 2619.

§ 2620. Wills to be recorded and retained — Exception.

Every will admitted to probate, together with the decree, order or judgment admitting it to probate shall be recorded in the proper surrogate's court. Where a written will is proved, [as prescribed in this section] it must be filed and remain in the surrogate's office. But when it shall be shown, by affidavit or otherwise, to the satisfaction of the surrogate, that the decedent left real or personal property in another state or territory of the United States or in a foreign country, and that the laws of such state, territory or country require the production of the original will before the provisions thereof become effective, the surrogate may, at any time after probate, and upon such notice to the parties interested in the estate as he may think proper, cause any original will remaining on file in his office to be sent by post or otherwise to any court which, or to any officer of such state, territory or country who, under the laws thereof, is empowered to receive the same for probate, or may deliver such will to any person interested in the probate thereof in such state, territory or country, or to his representative, upon such terms as he shall think proper for the preservation of the will and the protection of other parties interested in the estate.

NOTE.—Substance found in former §§ 2623 and 2498. Requirement that proofs in uncontested probate be also recorded, omitted. Part of § 2620 put into this section. Section 2635 to be repealed, as many searchers think the original will should always remain in the surrogate's office.

[§ 2635. Wills to be returned after probate.

Except where special provision is otherwise made by law, or where the surrogate sends a will into another state or territory or into a foreign country, or delivers it to a party in interest, as provided in section twenty-six hundred and twenty of this act, a written will, after it has been proved and recorded, must be retained by the surrogate, until the expiration of one year after it has been recorded, and, if a petition for the revocation of probate thereof is then filed, until a decree is made thereupon. It must then be returned, upon demand, to the person who delivered it, unless he is dead, or a lunatic, or has removed from the state; in which case, it may, in the discretion of the surrogate, be delivered to any person named therein as devisee, or to an heir or assignee of a devisee; or, if it relates only to personal property, to the executor, or administrator with the will annexed, or to a legatee.]

NOTE.—Many real estate lawyers are strongly of the opinion that all wills should remain in the surrogate's office, as provided in new section on prior page. If the section is retained it ought to provide for retaining the will if any action is pending and for at least two years.

§ 2621 [2629]. Will certified, or record thereof, may be read in evidence.

The surrogate must cause to be indorsed upon, or annexed to, the original will admitted to probate, or the exemplified copy, or statement of the tenor of the will, which was admitted without production of an original written will, a certificate, under his hand, or the hand of the clerk of his court, and his seal of office, stating that it has, upon due proof, been admitted to probate, as a will valid to pass real or personal property, or both, as the case may be. The will, or the copy or statement, so authenticated, the record thereof, or an exemplified copy of the record, may be read in evidence, as proof of the original will, or of the contents or tenor thereof, without further evidence, and with the effect specified in [the preceding sections] *this chapter*.

NOTE.—No change in this section.

§ 2622 [2630]. Recording wills proved elsewhere within the state.

A [transcript] *certified copy* of a will of real property, proved and recorded in any court of the state[,] of competent jurisdiction, [and of all the notices, process, and proofs relating to the same,] must[, when duly exemplified,] be recorded upon the request of any person interested therein, in the [surrogate's court] *office of the county clerk or register as the case requires* of any county[,] in which real property of the testator is situated.

§ 2623 [2631]. Records of certain wills heretofore proved; how far evidence.

The exemplification of the record of a will, proved before the judge of the former court of probate[s], and recorded in his office before the first day of January, in the year seventeen hundred and eighty-five, certified under the seal of the officer having custody of the record, must be admitted in evidence in any case, after it has been made to appear that diligent and fruitless search has been made for the original will.

[§ 2632. Same.]

A[n exemplified] *certified copy* of the last will and testament of any deceased person, which has been admitted to probate, whether as a will of real or personal property, or both, and recorded in the office of the surrogate in any county of this state, shall be admitted in evidence in any of the courts of this state, without the proofs and examination taken on the probate thereof, and whether such proofs shall have been recorded or not, with like effect as if the original of such will had been produced and proven in such court, when thirty years have elapsed since the will was admitted to probate and recorded. And the recording of such will shall be evidence that the same was duly admitted to probate. The exemplification of the record of a will which has been proved before the surrogate or judge of probate, or other officer exercising the like jurisdiction of another state must, when certified by the officer having by law, when the certificate was made, custody of the record, be admitted in evidence as if the original will was produced and proved, when thirty years have elapsed since the will was proved.

NOTE.— Former §§ 2631, 2632 combined.

[§ 2646. Effect of certain provisions limited.

This article does not vary the effect of a decree for probate, made before this chapter takes effect, as declared in the statutes then in force.]

NOTE.—Repeal as being no longer useful.

§ 2624 [2684]. Revocation of letters upon proof of will. [or of probate, etc.]

Where, after letters of administration, on the ground of intestacy, have been granted, a will is admitted to probate, and letters are issued thereupon; or where, [after letters have been issued upon a will, the probate thereof is revoked, or] a subsequent will is admitted to probate and letters are issued thereupon; the decree, granting [or revoking] probate, must revoke the former letters.

NOTE.—Changes made because power to revoke probate has been taken away.

§ 2625. When letters testamentary may be issued.

After a will has been admitted to probate any person entitled to letters thereunder who is competent by law to serve, and who appears and qualifies, is entitled to letters testamentary thereupon.

A person entitled to letters upon a contingency may appear and show that the contingency has happened by which he is entitled to such letters.

A person named as an executor by a person other than the testator under a valid power contained in a will, must appear and file an acknowledged or proved, and duly certified selection of himself as an executor within fifteen days after the date of the decree admitting the will to probate, in default whereof the power of selection is deemed to have been renounced, unless for good cause shown the surrogate extends such time or relieves the default.

NOTE.—§ 2636 re-written. The decree on probate should not recite the happening of the contingency. Let proof be made at any time before letters are issued.

The last part of § 2636 is put into this new general section.

Necessary part of § 2640 inserted here.

§ 2626 [2613]. Supplementary letters; executors not named in letters not to act. [; power of executor before letters of administration with the will annexed.]

If the disability of a person under age, or an alien named as executor in a will, be removed before the execution of the provisions of such will is completed, he shall be entitled, on *petition being filed setting forth the facts* [application,] to supplementary letters testamentary, to be issued in the same manner as the original letters, and authorized to join in the execution of the will with the persons previously appointed. A person named in a will as executor, *shall be deemed to be superseded by the issue to another person of letters testamentary* [and not named as such in the letters testamentary or in letters of administration with the will annexed,] shall be deemed to be superseded thereby, and shall have no power or authority whatever as such executor until he appears and qualifies. [An executor named in a will has no power to dispose of any part of the estate of the testator before letters testamentary are granted, except to pay funeral charges, nor to interfere with such estate in any manner further than is necessary for its preservation.* Where letters of administration with the will annexed are granted, the will of the deceased shall be observed and performed; and the administrators with such will, have the rights and powers and are subject to the same duties as if they had been named executors in the will.†]

NOTE.— * Inserted in new § 2693.

† Inserted in new § 2695.

§ 2627 [2642]. Executor failing to qualify or renounce, how excluded.

If a person named as executor in a will, does not qualify or renounce, within [thirty] *fifteen* days after probate thereof; or if a person chosen by virtue of a power in the will, does not qualify or renounce within [thirty] *fifteen* days after the filing of the instrument designating him; or, in either case, if objections are filed, and the executor does not qualify or renounce, within five days after they are determined, in his favor, or, in a case specified in section [twenty-six hundred and thirty-eight] 2567 of this [act,] *chapter*, within five days after an objection has been established; the surrogate must, upon the application of any other executor, or any creditor or person interested in the estate, make an order requiring him to qualify within a time therein specified; and directing that, in default of so doing, he be deemed to have renounced his appointment. Where it appears, by affidavit, or other written proof, to the satisfaction of the surrogate, that such an order cannot, with due diligence, be served personally within the state, upon the person therein named, the surrogate may prescribe the manner in which it must be served, which may be by publication. If the person, so appointed executor, does not qualify within the time fixed, or within such further time as the surrogate allows for that purpose, an order must be made [and recorded,] reciting the facts, and declaring that he has renounced his appointment as executor. Such an order may be revoked by the surrogate in his discretion, and letters testamentary may be issued to the person so failing to renounce or qualify, upon his application, in a case where he might have retracted an express renunciation, as prescribed in *the next* section. [twenty-six hundred and thirty-nine of this act.] [And where any powers to sell, mortgage or lease real estate, or any interest therein, are given to executors as such, or as trustees, or as executors and trustees and any of such persons named as executors shall neglect to qualify, then all sales, mortgages and leases under said powers made by the executors who shall qualify, shall be equally valid as if the other executors or trustees had joined such sale.]*

NOTE.— * Inserted in new § 2694.

Time to qualify reduced from 30 to 15 days. in line with the intention to avoid unnecessary delay.

[§ 2641. Objection to such a person, how taken, etc.

Within five days after a selection is made, as prescribed in the last section, any person may file an affidavit, verified as prescribed in section twenty-six hundred and thirty-six of this act, showing that he is a creditor of the decedent, or a person interested in the estate, and setting forth specifically one or more legal objections to granting letters to the person selected. The proceedings to be taken thereupon are the same as prescribed in sections twenty-six hundred and thirty-seven and twenty-six hundred and thirty-eight of this act. If letters are not issued to the person so selected, the power of selection is deemed to be exhausted.]

NOTE.— Repealed. Covered by the general section on objections. New § 2566.

[§ 2640. Selection of an executor under a power.

Where the will contains a valid power, authorizing the selection, as executor thereof, of a person not named therein, the selection must be made, by the person appointed for that purpose, within thirty days after making the decree admitting the will to probate; in default whereof, the power of selection is deemed to have been renounced. Such selection must be made by an instrument in writing, designating the person selected, signed by the proper person, and acknowledged or proved, and certified, in like manner as a deed to be recorded in the county, or proved to the satisfaction of the surrogate, and filed in the surrogate's office. Where the will authorizes the person, so to be selected, to act with the executor or executors named therein, the issuing of letters must be delayed until the expiration of the period, fixed in this section for the exercise of the power of selection and if the selection is so made, for five days thereafter.]

NOTE.— First sentence incorporated in new § 2625, which is all that it is considered necessary to retain.

§ 2628 [2639]. Renunciation by *nominated* executor; retraction thereof.

A person, named as executor in a will, may renounce the appointment by an instrument in writing, signed by him, and acknowledged, or proved, and *duly* certified, [in like manner as a deed to be recorded in the county,] or attested by one or more witnesses, and proved to the satisfaction of the surrogate. Such a renunciation may be retracted by a like instrument, at any time before letters testamentary, or letters of administration with the will annexed, have been issued to any other person in his place; or, after they have been so issued, if they have been revoked, or the person to whom they were issued, has died, or become a lunatic, and there is no other acting executor or administrator. Where a retraction is so made, letters testamentary may, in the discretion of the surrogate, be issued to the person making it *upon such notice as the surrogate may require*. An instrument specified in this section must be filed [and recorded] in the surrogate's office.

[§ 2637. Surrogate to inquire into objections.

The surrogate must inquire into an objection, filed as prescribed in the last section; and, for that purpose, he may receive proof, by affidavit or otherwise, in his discretion. If it appears that there is a legal and sufficient objection to any person, named as executor in the will, letters shall not be issued to him, except as prescribed in the next section.]

NOTE.— By amendment to prior sections this section can be eliminated.

§ 2629 [2695]. Ancillary letters upon foreign probate.

Where a will of personal property made by a person who resided without the state at the time of the execution thereof, or at the time of his death, has been admitted to probate *or established* within the foreign country, or *admitted to probate* within the state or the territory of the United States, where it was executed, or where the testator resided at the time of his death; the surrogate's court having jurisdiction of the estate, must, upon an application made as prescribed in this article, accompanied by a copy of the will, and of the foreign letters, if any have been issued, authenticated as prescribed in section forty-five of the decedent estate law, record the will and the foreign letters, and issue thereupon ancillary letters testamentary, or ancillary letters of administration with the will annexed, as the case requires.

NOTE.—The changes are made because sometimes, in a foreign country, wills are not probated, but are established by a procedure peculiar to that country.

§ 2630 [2696]. Id.; upon foreign grant of administration.

Upon application by the party entitled as hereinafter provided, or by his duly authorized attorney-in-fact made as prescribed in this article, to a surrogate's court having jurisdiction of the estate, and upon the presentation of a copy, authenticated as prescribed in section forty-five of the decedent estate law, of letters of administration upon the estate of a decedent who resided at the time of his death without this state, but within the United States, granted within the state or territory where the decedent so resided, or, in cases where the decedent, at the time of his death, resided without the United States, upon the presentation to such surrogate's court of satisfactory proof that the party so applying either personally or by such attorney-in-fact, is entitled to the possession in the foreign country of the personal estate of such decedent, the surrogate's court to which such copy of such foreign letters so authenticated, or such proof, is so presented, must issue ancillary letters of administration in accordance with such application, except in the following cases:

[1. Where ancillary letters have been previously issued as prescribed in the last section.]

[2. Where an application for letters of administration upon the estate has been made by a relative of the decedent who is legally competent to act, to a surrogate's court of this state having jurisdiction to grant the same, and letters have been granted accordingly, or the application has not been finally disposed of.]

1. Where original letters testamentary or ancillary letters upon foreign probate have been previously issued, or the application therefor has not been finally disposed of.

2. Where original letters of administration, upon the estate, have been previously issued to a person entitled to the same, who is legally competent to act, or the application therefor has not been finally disposed of.

NOTE.—Change prohibits granting ancillary letters when another application is pending.

§ 2631 [2697]. To whom ancillary letters granted.

Where the will specially appoints one or more persons as the *executor or executors* thereof, with respect to personal property situated within the state, the ancillary letters testamentary must be directed to the *person or persons* so appointed, or to those who are competent to act and qualify. If all are incompetent, or fail to qualify, or in a case where such an appointment is not made. ancillary letters testamentary, or ancillary letters of administration, issued as prescribed in this article, must be directed to the person named in the foreign letters or to the person otherwise entitled to the possession of the personal property of the decedent. unless another person applies therefor, and files with his petition, an instrument, executed by the foreign executor or administrator, or person otherwise entitled as aforesaid; or, if there are two or more, by all who have qualified and are acting; and also acknowledged, or proved, and *duly* certified [in like manner as a deed to be recorded in the county], authorizing the petitioner to receive such ancillary letters, in which case, the surrogate must, if the petitioner is a fit and competent person, issue such letters directed to him. Where two or more persons are named in the foreign letters, or in an instrument executed as prescribed in this section, the ancillary letters may be directed to either or any of them, without naming the others, if the others fail to qualify, or if, for good cause shown to the surrogate's satisfaction, the decree so directs.

§ 2632 [2698]. Petition; citation.

An application for ancillary letters testamentary, or ancillary letters of administration, as prescribed in this article, must be made by petition *which must set forth the amount of security given on the original appointment*, [Upon the presentation thereof, the surrogate must ascertain, to his satisfaction, whether any creditors, or persons claiming to be creditors of the decedent reside within the state; and if so,] the name and residence of each creditor, or person claiming to be a creditor, *and the amount of his claim* so far as the same may be ascertained. *Citation shall thereupon issue to the state comptroller, and to such creditors, who shall reside within the state, and may issue generally to all creditors or persons claiming to be creditors.* [Unless such creditors shall file duly acknowledged waivers of the issuance and service of citation, he must thereupon issue a citation, directed to each person whose name and residence have been so ascertained and who has not waived the issuance and service of such citation. The surrogate may also in his discretion issue a citation directed generally to all creditors, or persons claiming to be creditors, of the decedent. Any such person, although not cited by his name, may appear, and contest the application, and thus make himself a party to the special proceeding.]*

NOTE.—* Provided for in new § 2511.

Provision made for more full petition so that surrogate may determine as to bond. See next section.

§ 2633 [2699]. Hearing; security.

Upon the return of the citation, the surrogate must ascertain, as nearly as he can do so, the amount of debts due or claimed to be due, from the decedent to residents of the state. Before ancillary letters are issued, the person to whom they are awarded, must qualify, as prescribed [in article fourth of this title,] for the qualification of an administrator upon the estate of an intestate; except that the penalty of the bond may, in the discretion of the surrogate, be in such a sum, not exceeding twice the amount which appears to be due from the decedent to residents of the state, as will, in the surrogate's opinion, effectually secure the payment of those debts; or the sums which the resident creditors will be entitled to receive, from the persons to whom the letters are issued, upon an accounting and distribution, either within the state, or within the jurisdiction where the principal letters were issued. *If however there appear to be no creditors, or transfer tax assessable, and a citation to show cause why such letters should not issue without a bond, has been directed generally to all creditors and has been duly served by publication, such letters may issue without a bond.*

NOTE.—The new matter provides a way to dispense with a bond in many cases where to give one is useless and a burden.

§ 2634 [2700]. Persons acting under ancillary letters must transmit assets.

The person to whom ancillary letters are issued, as prescribed in this article, must unless otherwise directed in the decree awarding the letters; or in a decree made upon an accounting; or by an order of the surrogate, made during the administration of the estate; or by the judgment or order of a court of record, in an action to which that person is a party; transmit the money and other personal property of the decedent, received by him after the letters are issued, or then in his hands in another capacity, to the state, territory, or country, where the principal letters are granted, to be disposed of pursuant to the laws thereof. [Money or other property, so transmitted by him, at any time before he is so directed to retain it, must be allowed to him upon an accounting.]

NOTE.—The surrogate should not be obliged to allow a credit for money transmitted when creditors have not been paid.

§ 2635 [2701]. *Id.*; when they may be directed to pay, etc., without transmission.

The surrogate's court, or any court of the state, which has jurisdiction of an action to procure an accounting, or a judgment construing the will, may in a proper case, by its judgment or decree, direct a person, to whom ancillary letters are issued as prescribed in this article, to pay, out of the money or the avails of the property, received by him under the ancillary letters, and with which he is chargeable upon his accounting, the debts of the decedent, due to creditors residing within the state; or, if the amount of all the decedent's debts here and elsewhere exceeds the amount of all the decedent's personal property applicable thereto, to pay such a sum to each creditor, residing within the state as equals that creditor's share of all the distributable assets, or to distribute the same among the legatees or next of kin, or otherwise dispose of the same, as justice requires.

§ 2636 [2702]. *Id.*; general powers and duties.

The provisions of this chapter, relating to the rights, powers, duties and liabilities of an executor or administrator, apply to a person to whom ancillary letters are granted, as prescribed in this article; except those [contained in title fifth thereof;] relating to the mortgage, lease or sale of real property for the payment of debts and expenses; or where special provision is otherwise made in this article; or where a contrary intent is expressed in, or plainly to be inferred from, the context.

§ 2637. How testamentary trustee shall qualify.

A testamentary trustee named in a will or appointed by the surrogate shall, before exercising the duties of his office, qualify by taking and filing with the surrogate an oath of office and such bond as may be required by the surrogate.

A trust company or other trustee exempted by law from taking an oath of office, and filing a bond, shall file a consent to accept such appointment duly executed and acknowledged.

[§ 2817. Removal of testamentary trustee.

In either of the following cases, a person beneficially interested in the execution of the trust, may present to the surrogate's court, a written petition, duly verified, setting forth the facts and praying for a decree removing a testamentary trustee from his trust; and that he may be cited to show cause why such a decree should not be made:

1. Where, if he was named in a will as executor, letters testamentary would not be issued to him, by reason of his personal disqualification or incompetency.

2. Where, by reason of his having wasted or improperly applied the money or other property in his charge, or invested money in securities unauthorized by law, or otherwise improvidently managed or injured the property committed to his charge, or by reason of other misconduct in the execution of his trust, or dishonesty, drunkenness, improvidence, or want of understanding, he is unfit for the due execution of his trust.

3. Where he has failed to give a bond, as required by a decree, made as prescribed in the last two sections; or has wilfully refused, or without good cause neglected to obey, a direction of the surrogate, contained in any other decree, or in an order, made as prescribed in this title; or any provision of law relating to the discharge of his duty.】

NOTE.—Repeal. Embodied in general sections, new, 2569, etc. As the causes for removal of all officers are similar, one proceeding has been made to include them all.

§ 2638 [2818]. Appointment of successor.

When a person named in a will as sole testamentary trustee dies prior to the probate of the will, or by an instrument in writing renounces his appointment, or when a sole testamentary trustee dies, or becomes a lunatic, or is, by a decree of the surrogate's court, removed or allowed to resign or **[and the trust has not been fully executed, the same court may appoint his successor; unless such an appointment would contravene the express terms of the will.]** **[W]**where one of two or more persons named in a will as testamentary trustees dies prior to the probate of the will or by an instrument in writing, renounces his or their appointment, or where one of two or more testamentary trustees dies or becomes a lunatic, or is by decree of the surrogate's court removed or allowed to resign, *and the trust has not been fully executed, the surrogate's court may appoint a successor or successors, unless such appointment would contravene the express terms of the will, or in a case where there is a trustee in office, all the beneficiaries waive such appointment in writing.* **[a successor shall not be appointed except where such appointment, is necessary in order to comply with the express terms of the will, or unless the same court or the supreme court shall be of the opinion that the appointment of a successor would be for the benefit of the cestuis que trust.]** **[Unless and]** Until a successor is appointed the remaining trustee or trustees may proceed and execute the trust. **[as fully as if such trustee or trustees had not died, renounced, become a lunatic, been removed or resigned.]** **[Where a decree removing a trustee, or discharging him upon his resignation, does not designate his successor, or the person designated therein does not qualify;]** The successor must be appointed **[and must qualify, in the manner prescribed by law for the appointment and qualification of an administrator with the will annexed]** *upon the application of any person interested and upon notice to such persons as the surrogate may designate.*

NOTE.—It is thought by many to be advisable to appoint a successor when one of two or more trustees dies. To accomplish this the amendments are suggested.

§ 2639. Security to be required from a trustee or executor acting as trustee.

Whenever by any last will and testament, or by an order of the surrogate's court, a trustee is appointed, or an executor is appointed who is required to hold, manage, or invest any money, securities or property real or personal for the benefit of another, such trustee, or executor before receiving any such property into his possession or control shall, unless contrary to the express terms of the will, execute to the people of the state of New York, in the usual form, a bond with sufficient surety or sureties in an amount to be fixed by the surrogate. Upon any judicial settlement and partial distribution of such estate or fund the decree may provide for the discharge of the existing bond, and the filing of a new bond covering the amount still remaining in the hands of such executor or trustee.

This section shall not affect any executor or trustee named in a will executed before this section takes effect.

NOTE.—It may not be wise to require all executors to give a bond, and if the time fixed is after first judicial settlement none will be had — therefore have limited the giving of a bond to an executor who is also trustee.

The fact that executors with trust powers are not required to give a bond, has caused much loss to many persons. An executor who only acts in settling an estate is not required to give a bond — only one whose control of the fund will cover a period of years.

[§ 2816. Security; how given.]

The security, given as prescribed in the last section, must be a bond to the same effect, and in the same form, as an executor's bond. Each provision of this chapter, applicable to the bond of an executor, or to the rights, duties, and liabilities of the parties thereto, or any of them, including the release of the sureties, and the giving of a new bond, apply to the bond so given, and to the parties thereto.]

NOTE.—By new § 2639 bonds are to be required from all trustees; hence this section to be repealed.

[§ 2815. Petition for security from testamentary trustee.

Any person, beneficially interested in the execution of the trust, may present to the surrogate's court a written petition, duly verified, setting forth, either upon his knowledge, or upon his information and belief, any fact, respecting a testamentary trustee, the existence of which, if it was interposed as an objection to granting letters testamentary to a person named as executor in a will, would make it necessary for such a person to give security, in order to entitle himself to letters; and praying for a decree, directing the testamentary trustee to give security for the performance of his trust; and that he may be cited to show cause, why such a decree should not be made. Upon the presentation of such a petition, the surrogate must issue a citation accordingly. Upon the return of the citation, a decree, requiring the testamentary trustee to give such security, may be made, in a case where a person so named as executor can entitle himself to letters testamentary, only by giving a bond; but not otherwise.]

NOTE.— Repeal this section. See new § 2639.

§ 2640 [2819]. Proceedings where testamentary trustee is also executor or administrator.

Where the same person is a testamentary trustee, and also the executor of the will, or an administrator upon the same estate, proceedings taken by or against him, as prescribed in this [title,] *act*, do not affect him as executor or administrator, or the creditors of, or persons interested in, the general estate, except in one of the following cases:

1. Where he presents a petition, praying for the revocation of his letters, he may, also, in the same petition, set forth the facts upon showing which he would be allowed to resign as testamentary trustee; and may thereupon pray for a decree allowing him so to resign, and for a citation accordingly.

2. Where a person presents a petition, praying for the revocation of letters issued to an executor or administrator; and any of the facts set forth in the petition are made, by the provisions of this [title,] *act*, sufficient to entitle the same person to present a petition praying for the removal of a testamentary trustee; the petitioner may pray for a decree removing the person complained of in both capacities, and for a citation accordingly.

In either case, proceedings upon the petition for the resignation or removal, as the case requires, of the testamentary trustee, and for the judicial settlement of his account, may be taken, as prescribed in this [title,] *act*, in connection with, or separately from, the like proceedings upon the petition for the revocation of the letters, as the surrogate directs.

§ 2641 [2820]. Application of this [title] *act*.

The provisions of this [title] *act* apply to a trust created by the will of a resident of the state, or relating to real property, situated within the state, without regard to the residence of the trustee, or the time of the execution of the will.

ARTICLE THIRD

Appointment and qualification of general, ancillary and testamentary guardians, and guardians by deed; filing and examining guardians' annual accounts.

§ 2642. *Guardian by judicial appointment and approval.*

A general guardian is one appointed by the supreme, or surrogate's court, for an infant, either over or under fourteen years of age.

A guardian by will is one appointed by the will of a father or mother in accordance with the provision of the domestic relations law and of section 1745 of the code of civil procedure, who has duly qualified pursuant to the provisions of this article.

A guardian by deed is one appointed by the deed of a father or mother in accordance with the provisions of the domestic relations law, who has duly qualified pursuant to the provisions of this article.

The term "guardian" as used in this chapter applies to all such guardians, except ancillary guardians.

NOTE.—Heretofore there has been no definition of the several kinds of guardians.

§ 2643 [2821]. Power of court to appoint guardians.

The surrogate's court has the like power and authority to appoint a general guardian of the person or of the property, or both, of an infant, which the chancellor had, on the thirty-first day of December, eighteen hundred and forty-six. It has also power and authority to appoint a general guardian, of the person or of the property, or both, of an infant whose father or mother is living, and to appoint a general guardian of the property only, of an infant married woman. Such power and authority must be exercised in like manner as they were exercised by the court of chancery, subject to the provisions of this act. [The same person may be appointed guardian of an infant in both capacities; or the guardianship of the person and of the property may be committed to different persons.]

NOTE.—Last sentence transferred to new section "Decree." New § 2649.

The plan of the revision of this subject is to make no distinction between general and temporary guardian or in the form of the application. Therefore the following sections may be repealed: 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, and their provisions rewritten into the following new sections.

§ 2644. Jurisdiction to appoint general guardian.

Where an infant has no guardian, a surrogate's court has jurisdiction to appoint a general guardian of an infant's person, or estate, or of both, in the following cases:

1. *Where the infant is a resident of that county, or has sojourned in that county for at least one year immediately preceding the application.*

2. *Where the infant is not a resident of the state, but has property, real or personal, situated in that county.*

NOTE.—In this new section have been combined parts of several sections, §§ 2822, 2827.

The idea in rewriting the first several sections is to consolidate the sections which separately provide for appointment for infants under and over 14.

No temporary guardian will hereafter exist. The only use of the division was to enable the infant to change his guardian on arriving at 14. We now provide that that can be done at any time, for good reasons.

§ 2645. *Petition for appointment of general guardian of infant; by whom made.*

A petition for the appointment of a general guardian of the person, or estate, or both, of an infant over the age of fourteen years must be made by the infant, except that such a petition may be made by any person where such infant is of unsound mind or refuses to make such petition, and in the judgment of the surrogate it is necessary or proper that such a guardian should be appointed.

A petition for the appointment of a general guardian of the person, or estate, or both, of an infant under the age of fourteen years may be made by any person in behalf of such infant.

NOTE.—This new section combines parts of §§ 2822, 2827.

§ 2646. *Petition for appointment of general guardian for infant; contents.*

A petition for the appointment of a general guardian of an infant shall set forth:

1. The full name, residence and date of birth.
2. The names of the father and mother and whether or not they are living, and if living, their place of residence; the name and address of the person with whom such infant resides; and the names and addresses of the nearest next-of-kin of full age residing in the county, if both father and mother are dead.
3. *Whether the infant has had, at any time, a guardian appointed by will or deed, or an acting guardian in socage, or a guardian of the person appointed pursuant to section eighty-six of the domestic relations law.*
4. The estimated value of the personal property, and of the annual income from any other personal property or real estate, to which the infant is or will be entitled.
5. The facts upon which the jurisdiction of the court depends.
6. If either parent is living and there are reasons why the parent should not be appointed such guardian, the reasons therefor.
7. If the petitioner be a non-resident married woman, and the petition relates to personal property only, it must affirmatively show that the property is not subject to the control or disposition of her husband, by the law of the petitioner's residence, and must set forth the name and residence of such husband.
8. The petition may set forth the reasons why a person named therein would be a proper and suitable person to be appointed such general guardian.

NOTE.—This section combines parts of §§ 2822, 2823, 2827.

§ 2647. Who shall be cited; discretion of surrogate.

Upon presentation of the petition, a citation to show cause why the application should not be granted shall be issued as follows:

1. *To the parent or parents, or if there be none, to the grandparents, who are within the state and whose residences therein are known.*

2. *To the person having the care and custody of the infant, or with whom he resides.*

3. *If the application be made on behalf of an infant over fourteen years of age by any person on the infant's refusal to make such application, citation shall also issue to the infant.*

4. *If the application is made by a married woman, to her husband only.*

But no citation shall be necessary to a parent who has abandoned the infant, or is deprived of civil rights, or divorced from the petitioner because of his or her adultery, or adjudged to be insane, or to be an habitual drunkard, or judicially deprived of the custody of the child; or in case the petitioner is a married woman to a husband who has abandoned her, or is deprived of civil rights, or divorced because of his adultery, or adjudged to be insane or an habitual drunkard.

The surrogate must inquire and ascertain as far as practicable, what relatives of the infant reside in his county or elsewhere, and with whom the infant resides; and he may in his discretion cite any relative or class of relatives to show cause why the appointment should not be made.

NOTE.—This section combines parts of §§ 2823, 2825. Provision in case parent is a nonresident, unknown or has abandoned, is new, and is taken in part from § 111 of Domestic Relations Law.

§ 2648. Hearing.

Where a citation is not issued, or upon the return of a citation, the surrogate must inquire into all the facts and circumstances regarding the infant, his or her condition in life and surroundings, and also must ascertain as nearly as practicable the value of his or her personal property or income from personal property and of the rents and profits of his or her real property.

NOTE.—This section combines parts of §§ 2825, 2829.

§ 2649. Decree appointing general guardian; term of office.

If the surrogate is satisfied that the allegations of the petition are true in fact, and that the interests of the infant will be promoted by the appointment of a general guardian, either of his person, or of his property, or of both, he must make a decree accordingly. The same person may be appointed general guardian of both the person and the property of the infant, or the guardianship of the person and of the property may be committed to different persons. The surrogate may, in his discretion, appoint a person other than the father or mother of the infant, or other than the person nominated by the petitioner.

The term of office of a general guardian so appointed expires when the infant attains the age of twenty-one years.

NOTE. — This section combines parts of § 2821 and § 2828.

§ 2650 [2830]. Qualification of general guardian of property[; limited letters].

Before letters of guardianship [of an infant's property] are issued by the surrogate's court *on an infant's property to a general guardian*, the person appointed must, besides taking an official oath, as prescribed by law, execute to the infant, and file with the surrogate his bond, with at least two sureties in a penalty, fixed by the surrogate, not less than twice the value of the personal property, and of the rents and profits of the real property *and of the annual income receivable by him from any funds of which the general guardian will not have possession*; conditioned that the guardian will, in all things, faithfully discharge the trust reposed in him, and obey all lawful directions of the surrogate touching the trust, and that he will, in all other respects, render a just and true account of all money and other property received by him, and of the application thereof, and of his guardianship, whenever he is required so to do by a court of competent jurisdiction. But the surrogate may, in his discretion, limit the amount of the bond to not less than twice the value of the personal property and of the rents and profits of the real property *or such annual income receivable by him* for the term of three years. [But in case where it appears to be impracticable to give a bond sufficient to cover the whole amount of the infant's personal property, the surrogate may, in his discretion, accept security, to be approved by the surrogate, not less than twice the amount of the particular portion of the infant's property which the general guardian will be authorized under the letters to receive; and issue letters thereon limited to the receiving and administering only such personal property for which double the security has been given, and restraining the general guardian from receiving any other personal property of the infant, until the further order of the surrogate, on additional further satisfactory security.]

NOTE.—Last sentence, regarding limited letters, put in a separate section following.

Penalty of the bond not changed here as in administration, as the reason for reducing the bond does not apply to a guardian.

§ 2651. *Limited and restrictive letters of guardianship.*

In a case where a general guardian of an infant is named or appointed, and it appears to be impracticable to give a bond sufficient to cover the whole amount of the infant's personal property, the surrogate may, in his discretion, accept security, [to be] approved by [the surrogate] him, not less than twice the amount of the particular portion of the infant's property which the guardian will be authorized under the letters to receive; and issue letters thereon limited to the receiving and administering only such personal property for which double the security has been given, and restraining the guardian from receiving any other personal property of the infant, until the further order of the surrogate, on additional further satisfactory security.

NOTE.—Rewritten from former § 2830.

§ 2652 [2831]. *Id.; of general guardian of person.*

Before letters of guardianship of an infant's person are issued by the surrogate's court, the person appointed must take the official oath, as prescribed by law. The surrogate may also require him to execute to the infant a bond, in a penalty fixed by the surrogate, and with or without sureties, as to the surrogate seems proper; conditioned that the general guardian will in all things faithfully discharge the trust reposed in him, and duly account for all money or other property which may come to his hands, as directed by the surrogate's court.

§ 2653. Appointment of general guardian by supreme court.

Where the supreme court or any other court appoints a general guardian of an infant's person, or property, or both, a certified copy of the order or decree appointing such guardian and of the bond or undertaking given by such guardian shall be filed in the surrogate's court of the county in which the infant resides, or if such infant be a non-resident, of the county in which such infant has property real or personal, and a minute thereof made and indexed in the book kept by the surrogate in which orders or decrees appointing guardians are entered. A guardian so appointed shall be subject to all the duties and liabilities specified in this title.

NOTE.—In some counties the supreme court is constantly appointing guardians, especially in negligence cases, and now no record thereof is to be found in the surrogate's office.

§ 2654 [2838]. Application for ancillary letters to foreign guardians.

1. Where an infant, who resides without the state, and within the United States, is entitled to property within the state, or to maintain an action in any court thereof, a general guardian of his property, who has been appointed by a court of competent jurisdiction, within the state or territory where the ward resides, and has there given security, in at least twice the value of the personal property, and of the rents and profits of the real property, of the ward, may present, to the surrogate's court having jurisdiction, a **[written]** petition, **[duly verified,]** setting forth the facts, *and particularly whether or not there are any debts due or to become due from the infant to a resident of this state, and that the security given is sufficient in amount to cover the property sought to be obtained through such letters, and that the court had jurisdiction of the infant,* and praying for ancillary letters of guardianship accordingly. The petition must be accompanied with exemplified copies of the records and other papers, showing that he has been so appointed and has given the security required in this section, which must be authenticated in the mode prescribed in section forty-five of the decedent estate law, for the authentication of records and papers, upon an application for ancillary letters testamentary, or ancillary letters of administration. *Such petition and authenticated records and papers shall be conclusive evidence of the facts therein set forth in any court of this state.*

2. Where an infant, who resides without the state, and within a foreign country is entitled to personal property within the state, or to maintain an action, or special proceeding in any court thereof respecting such personal property, a general guardian of his property, authorized to act as such within the foreign country where the ward resides, may apply to the surrogate's court of the county where such personal property or any part thereof is situated, for ancillary letters of guardianship on the personal estate of such infant, and the person so authorized must present to the surrogate's court having jurisdiction a **[written]** petition **[duly verified,]** setting forth the facts *and such additional allegations regarding debts and security as required in subdivision one of this section,* and praying for ancillary letters of guardianship on the personal estate of such infant. The petition must be accompanied with the exemplified copies of the records and other papers showing the

appointment of such foreign guardian, or where such foreign guardian has not been appointed by any court, with other proof of his authority to act as such guardian within such foreign country, and also with proof that pursuant to the laws of such foreign country, such foreign guardian is entitled to the possession of the ward's personal estate. Exemplified copies of the records, where used pursuant to this subdivision, must be authenticated by the seal of the court, or officer, by which or by whom such foreign guardian was appointed, or the officer having the custody of the seal or of the record thereof, and the signature of a judge of such court, or the signature of such officer and of the clerk of such court or officer, if any; and must be further authenticated by the certificate, under the principal seal of the department of foreign affairs, or the department of justice of such country, attested by the signature or seal of a United States consul. *Such petition and authenticated records and papers shall be conclusive evidence of the facts therein set forth in any court of this state.*

NOTE.—The new matter is intended to give better protection to creditors, and more information to the court, as such letters have always been issued without bonds. See new § 2656.

§ 2655 [2839]. Proceedings thereupon.

Where the surrogate is satisfied upon the papers presented, as prescribed in the last section, that the case is within that section, and that it will be for the ward's interest that ancillary letters of guardianship should be issued to the petitioner, he may make a decree granting ancillary letters accordingly. Such a decree may be made without a citation, or the surrogate may cite such persons as he thinks proper to show cause why the prayer of the petition should not be granted. But before the ancillary letters are issued, the surrogate must *direct that any debts appearing to be due or owing from the infant to residents of this state be paid or security given therefor.* [inquire whether any debts are due from the ward's estate to residents of the state; and if so, he must require payment thereof.]

NOTE.—Information as to debts, loosely provided for in this section, must by the terms of § 2654 be furnished by the petitioner, and must bind him.

§ 2656 [2840]. Effect of such letters.

Ancillary letters of guardianship are issued as prescribed in the last section, without security *except as provided in that section* and without an oath of office. If issued in a case provided for in subdivision one, of section [twenty-eight hundred and thirty-eight,] 2654, they authorize the person to whom they are issued to demand and receive the personal property, and the rents and profits of the real property of the ward; to dispose of them in like manner as a *general* guardian of the property appointed as prescribed in this article; to remove them from the state, and to maintain or defend any action or special proceeding in the ward's behalf. If issued in a case provided for in subdivision two, of section [twenty-eight hundred and thirty-eight,] 2654, such ancillary letters of guardianship authorize the person to whom they are issued to demand and receive the personal estate of the ward, and to dispose of it in like manner as a guardian of property appointed as prescribed in this article, and to maintain or defend any action or special proceeding respecting such personal estate in the ward's behalf. But in neither case do such letters authorize such ancillary guardian to receive from a resident guardian, executor, or administrator, or from a testamentary trustee, subject to the jurisdiction of a surrogate's court, money or other property belonging to the ward, in a case where letters have been issued to a guardian of the infant's property, from a surrogate's court of a county within the state, upon an allegation that the infant was a resident of that county, except by the special direction made upon good cause shown, of the surrogate's court from which the principal letters were issued, or unless the principal letters have been duly revoked.

[§ 2841. Application of the last section to former guardians.

The last section applies to letters granted, before this chapter takes effect, by a surrogate's court of the state, to a guardian appointed by a court of another state, or territory of the United States, upon presentation of an exemplified transcript of the record of his appointment.]

NOTE.— Repeal as being now useless.

§ 2657 [2851]. Will or deed containing appointment to be proved, et cetera, and recorded.

A person shall not exercise, within the State, any power or authority, as guardian of the person or property of an infant, by virtue of an appointment contained in the will of the infant's father or mother, being a resident of the State, and dying after this chapter takes effect, unless the will has been duly admitted to probate, and recorded in the proper surrogate's court, and letters of guardianship have been issued to him thereupon; or by virtue of an appointment contained in a deed of the infant's father or mother, being a resident of the State, executed after this chapter takes effect, unless the deed has been acknowledged or proved, and certified, so as to entitle it to be recorded, and has been recorded in the office for recording deeds in the county, in which the person making the appointment resided, at the time of the execution thereof. Where a deed containing such an appointment is not recorded, within three months after the death of the grantor, the person appointed is presumed to have renounced the appointment; and if a guardian is afterward duly appointed by a surrogate's court, the presumption is conclusive.

NOTE.— See Dom. Rel. L., § 81, and Code Civ. Pro., § 1745.

§ 2658 [2852]. [Testamentary guardian:] *Guardian by will or deed; qualification, letters, et cetera.*

Where a will, containing the appointment of a guardian, is admitted to probate, *or a deed is recorded as provided in the foregoing section*, the person appointed guardian must, within thirty days thereafter, *qualify by taking and filing his oath of office, and a bond as fixed by the surrogate, unless contrary to the express provision of the will or deed*, [as prescribed in section two thousand five hundred and ninety-four of this act,] *and by filing a petition or affidavit setting forth the facts which entitle him to so qualify and receive letters; except that a trust company so named, instead of filing such oath and bond, shall file a consent to accept such appointment duly executed and acknowledged; otherwise he is deemed to have renounced the appointment. But the surrogate, either before or after the expiration of thirty days, may extend the time so to qualify, upon good cause shown, for not more than three months. [And any person interested in the estate may, before letters of guardianship are issued, file an affidavit setting forth with respect to the guardian so appointed, any fact which is made by law an objection to the issuing of letters testamentary to an executor. Sections two thousand six hundred and thirty-six to two thousand six hundred and thirty-eight of this act, both inclusive, apply to such an affidavit and to the proceedings thereupon.] A person appointed guardian by will or deed may, at any time before he qualifies, renounce the appointment by a written instrument, acknowledged, or proved, and duly certified, and [under his hand,] filed in the surrogate's office.*

NOTE.—Security required from all such guardians in such sum as the surrogate fixes. The theory that because a testator appoints a trustee or guardian, he should not give security, should be abandoned.

General section on objections to grant of letters (new § 2566) made to apply, and that portion repealed here.

[§ 2853. When security required from guardian appointed by will or deed.

Where a guardian of an infant's person or property has been appointed by will or by deed, the infant, or any relative or other person in his behalf, may present, to the surrogate's court in which the will was admitted to probate; or to the surrogate's court of the county in which the deed was recorded; a written petition, duly verified, setting forth, either upon his knowledge, or upon his information and belief, any fact, respecting the guardian, the existence of which, if it was interposed as an objection to granting letters testamentary to a person named as executor in a will, would make it necessary for such a person to give a bond, in order to entitle himself to letters; and praying for a decree, requiring the guardian to give security for the performance of his trust; and that he may be cited to show cause why such a decree should not be made. Upon the presentation of such a petition, and proof of the facts therein alleged, to the satisfaction of the surrogate, he must issue a citation accordingly. Upon the return of the citation, a decree requiring the guardian to give security may be made, in the discretion of the surrogate, in a case where a person so named as executor, can entitle himself to letters testamentary only by giving a bond; but not otherwise.]

NOTE.—Repeal. See note on prior page.

[§ 2854. What security to be given.

The security to be given, as prescribed in the last two sections, must be a bond to the same effect, and in the same form, as the bond of a general guardian, appointed by the surrogate's court. Each provision of this chapter, applicable to the bond of such a guardian, and to the rights, duties, and liabilities of the parties thereto, or any of them, including the release of the sureties, and the giving of a new bond; applies to the bond so given, and the parties thereto.]

NOTE.—Repeal. General provisions now cover all guardians.

[§ 2857. Effect of decree.

A decree made upon a judicial settlement of the account of a guardian appointed by will or by deed, as prescribed in this article, or the judgment rendered upon appeal from such decree, has the same force, as a judgment of the supreme court to the same effect.]

NOTE.—Repeal. General provision as to effect of all decrees (new § 2550).

[§ 2858. Removal of guardian appointed by will or deed.

Upon the petition of the ward, or of any relative or other person in his behalf, the surrogate's court, having jurisdiction to require security from a guardian appointed by will or by deed, may remove such a guardian, in any case where a testamentary trustee may be removed, as prescribed in title sixth of this chapter; and the proceedings upon such a petition are the same as prescribed in that title for the removal of a testamentary trustee. Where a citation is issued, upon a petition for the removal of such a guardian, he may be suspended from the exercise of his powers and authority, as if he had been appointed by the surrogate's court.]

NOTE.—Repeal. Such guardian now included in the terms of new §§ 2569, etc.

[§ 2859. Resignation of such a guardian.

A guardian appointed by will or by deed, may be allowed to resign his trust, by the surrogate's court, having jurisdiction to require security from him. The proceedings for that purpose, and the effect of a decree made thereupon, are the same, as where a guardian appointed by the surrogate's court presents a petition, praying that his letters may be revoked, as prescribed in article first of this title.]

NOTE.—New § 2572 amended so as to include this section. Repeal.

By combining all these proceedings of similar effect into one series of sections, much repetition is saved.

§ 2659 [2860]. Appointment of successor.

Where no guardian appointed by will or deed remains in office on account of resignation, removal, or death, [Where a sole guardian, appointed by the will or by deed, has been, by the decree of the surrogate's court, removed, or allowed to resign,] a [successor] general guardian may be appointed by the [same] surrogate's court, with all the powers conferred by the will or deed and with the effect prescribed in section [twenty-six hundred and five] 2563 of this [act] chapter; unless such an appointment would contravene the express terms of the will or deed.

NOTE.—Change extends the power to appoint successor when more than one testamentary guardian was appointed and all have died, etc.

§ 2660 [2842]. Guardian to file annual inventory and account.

A [general] guardian of an infant's property[, appointed by a surrogate's court,] must, in the month of January of each year, as long as any of the infant's property, or of the proceeds thereof, remains under his control, file in the surrogate's court the following papers:

1. An inventory, containing a full and true statement and description of each article or item of personal property of his ward, received by him, since his appointment, or since the filing of the last annual inventory, as the case requires; the value of each article or item so received; a list of the articles or items, remaining in his hands; a statement of the manner in which he has disposed of each article or item, not remaining in his hands; and a full description of the amount and nature of each investment of money, made by him.

2. A full and true account, in form of debtor and creditor, of all his receipts and disbursements of money, during the preceding year; in which he must charge himself with any balance remaining in his hands, when the last account was rendered, and must distinctly state the amount of the balance remaining in his hands, at the conclusion of the year, to be charged to him in the next year's account.

3. The names and residences of the sureties on his [undertaking] bond; if natural persons whether they are living; and whether the security of the [undertaking] bond has become impaired.

NOTE.—The amendment now includes all guardians.

§ 2661 [2843]. Affidavit to be annexed thereto.

With the inventory and account, filed as prescribed in the last section, must be filed an affidavit, which must be made by the **[general]** guardian, unless, for good cause shown in the affidavit, the surrogate permits the same to be made by an agent or attorney, who is cognizant of the facts. The affidavit must state, in substance, that the inventory and account contain, to the best of the affiant's knowledge and belief, a full and true statement of all the guardian's receipts and disbursements, on account of the ward; and of all money and other personal property of the ward, which have come to the hands of the guardian, or have been received by any other person by his order or authority, or for his use, since his appointment, or since the filing of the last annual inventory and account, as the case requires; and of the value of all such property; together with a full and true statement and account of the manner, in which he has disposed of the same, and of all the property remaining in his hands, at the time of filing the inventory and account; and a full and true description of the amount, and nature of each investment made by him, since his appointment, or since the filing of the last annual inventory, and account, as the case requires; and that he does not know of any error or omission in the inventory or account, to the prejudice of the ward. **[The surrogate must annex a copy of this and the last section, to all letters of guardianship of the property of an infant issued from his court.]**

NOTE.—The last sentence has been inserted in provisions regarding letters. New § 2558.

§ 2662 [2844]. Annual examination of [general] guardian's accounts.

In the month of February of each year and thereafter until completed, the surrogate must, for the purposes specified in the next section, examine or cause to be examined, under his direction, all inventories and accounts of guardians filed since the first day of February of the preceeding year. The examination may be made by the clerk of the surrogate's court, or by a person specially appointed by the surrogate to make it, who must, before he enters upon the examination, subscribe and take before the surrogate, and file with the clerk of the surrogate's court, an oath faithfully to execute his duties and to make a true report to the surrogate. [Where the surrogate seasonably certifies in writing to the board of supervisors, or, in the county of New York, to the board of aldermen, that the examination required by this section cannot be made by him, or by the clerk of the surrogate's court or by any clerk employed in his office and paid by the county, the board must provide for the compensation of a suitable person to make the examination.]

NOTE.—The last sentence has been substantially put into the following section, with the power given to the surrogate to fix the compensation in each case, the same to be paid by the county.

§ 2663 [2845]. Proceedings, when account defective, etc.

If it appears to the surrogate, upon an examination made as prescribed in the last section, *or by the report of such special examiner*, that a [general] guardian of an infant's property, [appointed by letters issued from his court,] has omitted to file his annual inventory or account, or the affidavit relating thereto, as prescribed in the last section but one; or if the surrogate is of the opinion, that the interest of the ward requires that the guardian should render a more full or satisfactory inventory or account; [the surrogate must make an order, requiring the guardian to supply the deficiency, and also, in his discretion, requiring the guardian personally to pay the expense of serving the order upon him. Where the guardian fails to comply with such an order within three months after it is made;] or where the surrogate has reason to believe that sufficient cause exists for the guardian's removal, the surrogate may, in his discretion, appoint a fit and proper person special guardian of the ward, for the purpose of filing a petition in his behalf, for the removal of the guardian, and prosecuting the necessary proceedings for that purpose. *And in a like case where said special examiner has been appointed, the surrogate shall make an order appointing said examiner special guardian of such infant with authority to procure the filing of an amended account or a proper account and to prosecute a proceeding for the removal of such guardian when necessary. The surrogate in all cases of examination or prosecution as aforesaid shall fix the fees and compensation of such special examiner and special guardian, and may in his discretion make an order charging them in whole or in part upon the guardian personally, the fund in his hands, or upon the county, in which latter case he shall certify the items thereof to the board of supervisors of the county or in the city of New York to the proper officers, and the same shall be audited and paid as other county or city charges.*

NOTE.—The former provisions seemed to be inadequate to enforce the filing of an account. By appointing a special examiner and allowing some compensation, this important duty may be properly performed.

§ 2664 [2846]. Surrogate may direct as to infant's maintenance.

Upon the petition of the [general] guardian of an infant's person or property; or of the infant; or of any relative or other person in his behalf; the surrogate, upon notice to such persons, if any, as he thinks proper to notify, may make an order, directing the application, by the guardian of the infant's property, to the support and education of the infant, of such a sum as to the surrogate seems proper, out of the income of the infant's property; or, where the income is inadequate for that purpose, out of the principal.

NOTE.— By omitting "general" this section applies to guardians by will or deed. They are brought within it by § 2855, Code, which can now be repealed.

[§ 2855. Inventory and intermediate account may be required.

Upon the petition of the ward, or of any relative or other person in his behalf, the surrogate's court having jurisdiction to require security, as prescribed in the last three sections, may, at any time, in the discretion of the surrogate, make an order requiring a guardian appointed by will or by deed, to render and file an inventory and account, in the same form, and verified in the same manner as the inventory and account required to be filed annually by a guardian appointed by a surrogate's court, as prescribed in article second of this title. The order may also require such an inventory and account to be filed, in the month of January of each year thereafter. Sections twenty-eight hundred and forty-two to twenty-eight hundred and forty-five of this act, both inclusive, apply to such an inventory and account, and to the filing thereof, as if the guardian had been appointed by the surrogate's court. The provisions of section twenty-eight hundred and forty-six of this act shall apply to a guardian appointed by will or deed with the same effect as if such guardian had been mentioned in said section, and the proceedings therein prescribed may be had in the case of any such guardian in the same manner as if he were a general guardian.]

NOTE.— Repeal. Provided for in new § 2660, etc.

TITLE IV**ASCERTAINING ASSETS AND DEBTS; PAYMENT OF DEBTS AND LEGACIES; POWERS AND DUTIES OF EXECUTORS AND ADMINISTRATORS; MORTGAGE, LEASE OR SALE OF REAL PROPERTY FOR PAYMENT OF DEBTS, FUNERAL EXPENSES, EXPENSES OF ADMINISTRATION, AND TO SATISFY CHARGES THEREON, AND FOR DISTRIBUTION.**

- Article I. Appointment of appraisers and making and returning inventory. Proceedings to discover property.
- II. Presenting claims, their allowance, rejection and trial. Payment of debts, legacies and expenses. Sales of real estate by executors, administrators with the will annexed, and testamentary trustees under power contained in the will. Deposit of money or securities.
- III. Applying rents, and proceeds of mortgage, lease or sale of real estate to the payment of debts, funeral and administration expenses, and charges upon real estate. Sale for distribution, and conveyance in confirmation of title.

ARTICLE FIRST

Appointment of appraisers, and making and returning inventory; proceedings to discover property.**§ 2665 [2711]. Appointment of appraisers and *making inventory* [appraisal].**

On the application of an executor or administrator, the surrogate, by writing, must appoint two disinterested appraisers, as often as may be necessary, to appraise the personal property of a deceased person, who shall be entitled to receive a reasonable compensation for their services, to be allowed by the surrogate, not exceeding for each, the sum of five dollars for each day actually employed in making appraisement in addition to expenses actually and necessarily incurred. The number of days' services rendered, and the amount of such expenses, must be verified by the affidavit of the appraiser, delivered to the executor or administrator, and adjusted by the surrogate before payment of the fees.* The executor[s and] or administrator[s], within *three months* [a reasonable time] after qualifying and after giving at least *five days'* notice *personally or by mail* [of at least five days] to the legatees [and] or next of kin, residing in the county [where the property is situated] *of the decedent*, and posting a notice in three [of the most] public places of the town, *or city where he resided*, specifying the time and place at which the appraisement will be made, must make a true and perfect inventory of all the personal property of the *decedent* [testator of intestate; and if in different and distant places two or more such inventories as may be necessary].† Before making the appraisement, the appraisers must take and subscribe an oath, to be inserted in the inventory, that they will truly, honestly and impartially appraise the personal property exhibited to them, according to the best of their knowledge and ability. They must in the presence of such of the parties interested as attend, estimate and appraise the property exhibited to them, and set down each article separately with the value thereof in dollars and cents, distinctly, in figures opposite to the articles respectively. Service of the notice above mentioned may be either personal or in the manner prescribed by section seven hundred and ninety-seven, subdivision one and section seven hundred and ninety-eight of this act.

NOTE.—* The provision as to fees is now in § 2752 under "costs."

† Put into following section.

§ 2666. Appraisal in different places; appraisal of newly discovered property.

Should any of the personal property to be inventoried be in different or distant places, the same appraisers may complete such inventory in any place where such property may be, and may adjourn the appraisal to such place; or, upon application duly made, the surrogate may appoint other appraisers to make the inventory of such unappraised property, and the same notice of such appraisal shall be given as for the local appraisal except the posting of notices.

If personal property not mentioned in any inventory come to the possession or knowledge of an executor or administrator, he must cause the same to be *duly* appraised [as herein required], and an inventory thereof to be returned within [two] one month[s] after the discovery thereof; and the making of such inventory and return may be enforced in the same manner as in the case of a first inventory.

NOTE.—Parts of former §§ 2711, 2714 combined and rewritten. Time for returning further inventory shortened in line with the idea of consuming less time in the settlement of an estate.

§ 2667 [2714]. Contents of inventory.

The inventory must contain a particular statement of all bonds, mortgages, notes and other securities for the payment of money belonging to the deceased, known to the executor or administrator *and of all debts owing by such executor or administrator to the deceased whether discharged by the will or not*, with the name of the debtor in each security, the date, the sum originally payable, *the amount due at decedent's death* [the indorsements thereon, if any, with the dates] and the sum which, in the judgment of the appraisers, is collectible on each security; and of all moneys[, whether in specie or bank bills, or other circulating medium,] belonging to the deceased, which have come to the hands of the executor or administrator[, and if none have come into his hands, the fact shall be stated in the inventory]. [The naming of a person executor in a will does not operate as a discharge or bequest of any just claim which the testator had against him; but it must be included among the credits and effects of the deceased in the inventory, and the executor shall be liable for the same as for so much money in his hands at the time the debt or demand becomes due, and he must apply and distribute the same in the payment of debts and legacies, and among the next of kin as part of the personal property of the deceased. The discharge or bequest in a will of a debt or demand of the testator against an executor named therein, or against any other person is not valid as against the creditors of the deceased; but must be construed only as a specific bequest of such debt or demand; and the amount thereof must be included in the inventory and, if necessary, be applied to the payment of his debts; and if not necessary for that purpose, must be paid in the same manner and proportion as other specific legacies.]* [If personal property not mentioned in any inventory come to the possession or knowledge of an executor or administrator, he must cause the same to be appraised as herein required, and an inventory thereof to be returned within two months after the discovery thereof; and the making of such inventory and return may be enforced in the same manner as in the case of a first inventory.]†

NOTE.—The omitted portions put into two other sections do not seem to belong here.

* Inserted in new § 2673.

† Inserted in new § 2666.

§ 2668 [2715]. Return of inventory.

Duplicates of the inventory must be made and signed by the appraisers, one of which must be retained by the executor or administrator, and the other returned to the surrogate within three months from the date of the letters. On returning such inventory, the executor or administrator must take and subscribe an oath, indorsed upon or annexed to the inventory, stating that the inventory is in all respects just and true, that it contains a true statement of all the personal property of the deceased which has come to his knowledge, and particularly of all money[, bank bills and other circulating medium] belonging to the deceased, and of all just claims of the deceased against him, according to the best of his knowledge. Any one executor or administrator, on the neglect of the others, may return an inventory; and the executors or administrators so neglecting shall not thereafter interfere with the administration or have any power over the personal property of the deceased; but the executor or administrator so returning the inventory shall have the whole administration, until the delinquent return, and verify an inventory in accordance with the provisions of this article.

NOTE.—In several of these sections the description of “money” is omitted.

§ 2669 [2716]. Return of inventory; how compelled.

A creditor, *coexecutor or coadministrator*, or person interested in the estate may present to the surrogate's court *a petition showing* [proof, by affidavit,] that an executor or administrator has failed to return an inventory, or a sufficient inventory, within the time prescribed by law therefor. If the surrogate is satisfied that the executor or administrator is in default, he must make an order requiring the delinquent to return the inventory, or a further inventory, or in default thereof, to show cause at a time and place therein specified, why he should not be [attached.] *removed or punished.* On the return of the order, if the delinquent has not filed a sufficient inventory, the surrogate *may revoke his letters, or* [must] issue a warrant of [attachment] *arrest* against him, on which the proceedings are the same as on a warrant issued for disobedience to an order, as prescribed in *article one of title twelfth of chapter seventeenth* of this act. A person committed to jail on the return of a warrant of [attachment,] *arrest* issued as prescribed in this section, may be discharged by the surrogate or a justice of the supreme court, on his paying and delivering, under oath, all the money and other property of the decedent, and all papers relating to the estate under his control, to the surrogate, or to a person authorized by the surrogate to receive the same.

NOTE.—“Attachment” changed to “arrest” to conform to the article mentioned. Power also given to remove, which would be useful.

§ 2670 [2713]. Exemption for [widow and children] benefit of family.

If a person [man] having a family die, leaving a widow or husband, or minor child or children, the following articles shall not be deemed assets, but must be included and stated in the inventory of the estate [without being appraised:] *as property set off to such widow, husband or minor child or children:*

1. [All spinning-wheels, weaving-loom, one knitting-machine, one sewing machine, and stoves put up or kept for use by his family.] *All house-keeping utensils, musical instruments, sewing machine and household furniture used in and about the house and premises, fuel and provisions, and the clothing of the deceased, in all not exceeding in value five hundred dollars.*

2. The family bible, family pictures and school-books, used by or in such family, and books not exceeding in value fifty dollars, which were kept and used as part of the family library.

3. [Sheep to the number of ten, with their fleeces, and the yarn and cloth manufactured from the same; one cow, two swine, and the pork of such swine, and necessary food for such swine, sheep or cow for sixty days, and all necessary provisions and fuel for such widow, child or children for sixty days after the death of such deceased person.] *Domestic animals with their necessary food for sixty days, not exceeding in value one hundred and fifty dollars.*

4. [All necessary wearing apparel, beds, bedsteads and bedding, necessary cooking utensils, the clothing of the family, the clothes of the widow and her ornaments proper for her station; one table, six chairs, twelve knives and forks, twelve plates, twelve tea cups and saucers, one sugar dish, one milk-pot, one tea-pot and twelve spoons, and other household furniture not exceeding one hundred and fifty dollars in value.] *Money or other personal property not exceeding in value one hundred and fifty dollars.*

Such property so set apart shall be the property of the surviving husband or wife, or of the minor child or children if there be no surviving husband or wife. No allowance shall be made in money or other property under subdivisions one, two and three if the articles mentioned therein do not exist.

[5. Other necessary household furniture, provisions or other personal property, in the discretion of the appraisers, to the value of not exceeding one hundred and fifty dollars. Such articles and property shall remain in the possession of the widow, if there

be one, during the time she lives with and provides for such minor child or children. If she ceases so to do, she shall be allowed to retain as her own, her wearing apparel, her ornaments and one bed, bedstead and the bedding for the same, and the property specified in subdivision five; and the other articles so exempted shall then belong to such minor child or children. If she lives with and provides for such minor child or children until it or they become of full age, all the articles and property in this section mentioned shall belong to the widow. If there be a widow and no minor child, all the articles and property in this section mentioned shall belong to the widow. If a married woman die, leaving surviving her a husband, or a minor child or children, the same articles and personal property shall be set apart by the appraisers with the same effect for the benefit of such husband or minor child or children.】

NOTE.—This section has been unchanged so long that it was thought advisable to make radical changes. The amount of exempt property is greatly increased, but in very small estates it will really work no change. In moderate and large estates the amount is none too large.

Title to exempt property given to surviving husband or wife, as division of it, according to part of section repealed, has been almost impossible in practice.

§ 2671 [2724]. Proceedings [for neglect to set apart] to compel set-off of exempt property. [; proceedings upon judicial settlement.]

Where an executor or administrator has failed to set apart property for a surviving husband, wife or child, as prescribed by law, the person aggrieved may present a petition to the surrogate's court, setting forth the failure and praying for a decree, requiring such executor or administrator to set apart the property accordingly; or, if it has been lost, injured or disposed of, to pay the value thereof, or the amount of the injury thereto, and that he be cited to show cause why such a decree should not be made. If the surrogate is of the opinion that sufficient cause is shown, [he must] *a citation shall* issue [a citation] accordingly. [On the return of the citation, the surrogate must make such a decree in the premises as justice requires.] In a proper case, the decree may require the executor personally to pay the value of the property, or the amount of the injury thereto. [The decree made on a judicial settlement of the account of an executor or administrator, may award to a surviving husband, wife or child, the same relief which may be awarded in his or her favor, on a petition presented as prescribed in this section.]*

NOTE.—* Inserted under decree of judicial settlement. (New § 2735.)

The phrase "on the return," etc., has been put once for all in new § 2510.

§ 2672 [2712]. What shall be deemed assets.

The following shall be deemed assets and go to the executors or administrators, to be applied and distributed as part of the personal property of the testator or intestate, and be included in the inventory:

1. Leases for years; lands held by the deceased from year to year; and estates held by him for the life of another person.

2. The interest remaining in him, at the time of his death, in a term of years after the expiration of any estate for years therein, granted by him or any other person.

3. The interest in lands devised to an executor for a term of years for the payment of debts.

4. Things annexed to the freehold, or to any building for the purpose of trade or manufacture, and not fixed into the wall of a house so as to be essential to its support.

5. The crops growing on the land of the deceased at the time of his death.

6. Every kind of produce raised annually by labor and cultivation, except growing grass and fruit ungathered.

7. Rent reserved to the deceased which had accrued at the time of his death.

8. Debts secured by mortgages, bonds, notes or bills; accounts, money, and bank bills, or other circulating medium, things in action, and stock in any corporation or joint-stock association.

9. Goods, wares, merchandise, utensils, furniture, cattle, provisions, moneys unpaid on contracts for the sale of lands, and every other species of personal property not hereinafter excepted. Things annexed to the freehold, or to a building, shall not go to the executor, but shall descend with the freehold to the heirs or devisees, except such fixtures as are mentioned in the fourth subdivision of this section. The right of an heir to any property, not enumerated in this section, which by the common law would descend to him, is not impaired by the general terms of this section.

NOTE.—No change in this section.

§ 2673. Assets; debt due from executor to testator; effect of discharge by will.

The naming of a person executor in a will does not operate as a discharge or bequest of any just claim *due or to become due* which the testator had against him; but it must be included among the credits and effects of the deceased in the inventory, and the executor shall be liable for the same as for so much money in his hands at the time the debt or demand becomes due, and he must apply and distribute the same in the payment of debts and legacies, and among the next of kin as part of the personal property of the deceased. The discharge or bequest in a will of a debt or demand of the testator against an executor named therein, or against any other person, is not valid as against the creditors of the deceased; but must be construed only as a specific bequest of such debt or demand; and the amount thereof must be included in the inventory and, if necessary, be applied in the payment of his debts; and if not necessary for that purpose, must be paid in the same manner and proportion as other specific legacies.

NOTE.—See Mtr. Burdick, 79 Misc. 167. Executor may owe a debt not yet due, pay a legacy to himself, and go into bankruptcy.

This section taken from former § 2714.

§ 2674 [2720]. Apportionment of rents, annuities and dividends.

All rents reserved on any lease made after June seventh, eighteen hundred and seventy-five, and all annuities, dividends and other payments of every description made payable or becoming due at fixed periods under any instrument executed after such date, or, being a last will and testament that takes effect after such date, shall be apportioned so that on the death of any person interested in such rents, annuities, dividends or other such payments, or in the estate or fund from or in respect to which the same issues or is derived, or on the determination by any other means of the interest of any such person, he, or his executors, administrators or assigns, shall be entitled to a proportion of such rents, annuities, dividends and other payments, according to the time which shall have elapsed from the commencement or last period of payment thereof, as the case may be, including the day of the death of such person, or of the determination of his or her interest, after making allowance and deductions on account of charges on such rents, annuities, dividends and other payments. Every such person or his executors, administrators or assigns shall have the same remedies at law and in equity for recovering such apportioned parts of such rents, annuities, dividends and other payments, when the entire amount of which such apportioned form part, become due and payable and not before, as he or they would have had for recovering and obtaining such entire rents, annuities, dividends and other payments, if entitled thereto; but the persons liable to pay rents reserved by any lease or demise, or the real property comprised therein shall not be resorted to for such apportioned parts, but the entire rents of which such apportioned parts **[from]** form parts, must be collected and recovered by the person or persons who, but for this section, or chapter five hundred and forty-two of the laws of eighteen hundred and seventy-five, would have been entitled to the entire rents; and such portions shall be recoverable from such person or persons by the parties entitled to the same under this section. This section shall not apply to any case in which it shall be expressly stipulated that no apportionment be made, or to any sums made payable in policies of insurance of any description.

NOTE.—No change in this section except to correct error.

[§ 2706. Liability of persons unauthorized to act as executors or administrators; authority of executor before probate.]

Every person becoming possessed of property of a testator or intestate, without being thereto duly authorized as executor or administrator, or without authority from the executor or administrator, is liable to account for the full value of such property to every person entitled thereto, and shall not be allowed to retain or deduct therefrom any debt due to him.】

NOTE.— This statute seems to limit the liability of such a person to simple liability to account, therefore it should be repealed leaving the common law to be applied. The prohibition on deducting a debt is already contained in other sections.

§ 2675 [2707]. Proceedings to discover property withheld.

An executor or administrator may present to the surrogate's court from which letters were issued to him, a [written] petition [duly verified,] setting forth on knowledge, or information and belief, any facts tending to show that money or other personal property which should be delivered to the petitioner, or included in an inventory or appraisal, is in the possession, under the control or within the knowledge or information of a person who withholds the same from him; or who refuses to impart knowledge or information he may have concerning the same, or to disclose any other fact which will aid such executor or administrator in making discovery of such property, [so that it cannot be inventoried or appraised;] and praying an inquiry respecting it, and that the *respondent* [person complained of] may be [cited] *ordered* to attend the inquiry and be examined accordingly, and to deliver the property if in his control. The petition may be accompanied by an affidavit or other *written* evidence, [written or oral,] tending to support the allegations thereof. If the surrogate is satisfied, on the papers so presented, that there are reasonable grounds for the inquiry, he must *make* [issue] *an order* [a citation] accordingly, which may be made returnable forthwith, or at a future time fixed by the surrogate, and may be served at any time before the hearing. *Service thereof must be made by delivery of a certified copy thereof to the person or persons named therein and the payment, or tender, to each of the sum required by law to be paid or tendered to a witness who is subpoenaed to attend a trial in surrogate's court.* [Where the person, or any of the persons, to be cited does not reside, or is not within the county of the surrogate, the citation, in the surrogate's discretion, may require him to appear at a specified time and place within the county where he resides or is served before the surrogate of that county.]

NOTE.—Order to show cause substituted for citation (see new § 2522), and additional order in § 2708 dispensed with. Section 2708 to be repealed, direction for service being inserted herein.

Last sentences omitted because such trial ought to be held before the surrogate of original jurisdiction.

[§ 2708. Order; service of citation and order.]

The surrogate must annex to or indorse upon the citation an order requiring the party cited to attend, personally, at the time and place therein specified. The citation and order must be personally served, and service thereof is ineffectual, unless it is accompanied with payment or tender of the sum required by law to be paid or tendered to a witness who is subpœnaed to attend a trial in the supreme court.]

NOTE.—Double process (citation and order) changed to order. See prior section.

[§ 2709. Examination and decree.]

On the attendance of a person to whom a citation is issued, as prescribed in this article, he may submit an answer duly verified showing cause why the examination should not proceed. The surrogate may then dismiss the proceeding or direct the examination to proceed. In the latter case he must be sworn to answer truly all questions put to him, touching the inquiry prayed for in the petition; and he may be examined fully and at large respecting property of the decedent, or of which the decedent had possession at the time of, or within two years before his death. A refusal to attend or be sworn, or to answer a question which the surrogate determines to be proper, is punishable in the same manner as a like refusal by a witness subpœnaed to attend a hearing before the surrogate. The extent of the examination shall be in the discretion of the surrogate. If the witness is examined concerning any personal communication or transaction between himself and the decedent, all objection under section eight hundred and twenty-nine to his testimony as to the same in future litigation is waived. Either party may produce further evidence, in like manner and with like effect as on a trial.]

NOTE.—Whole section to be repealed. Essential parts re-written into next section, except reference to § 829.

§ 2676. Trial and decree.

[If the witness admits having the control of the property, but the facts as to the petitioner's right are in dispute the proceeding shall end, unless the parties consent to its determination by the surrogate in which case it shall be so determined.**]** *If the person directed to appear submits an answer denying any knowledge concerning, or possession of, any property which belonged to the decedent in his lifetime, or shall make default in answer, he shall be sworn to answer truly all questions put to him touching the inquiry prayed for in the petition. If it appears that the petitioner is entitled to the possession of the property, the decree shall direct delivery thereof to him. If such answer alleges title to or the right to possession of any property involved in the inquiry, the issue raised by such answer shall be heard and determined and a decree made accordingly.*

[If the facts admitted by the witness show that he is in the control of property to whose immediate possession the petitioner is entitled, the surrogate may decree that it be delivered to the petitioner.**]**

NOTE.— With the provisions for jury trial of all questions in surrogate's court, this proceeding can be made of some effect and useful to determine questions of title.

Sections 2709 and 2710 combined, in substance, with new procedure.

If no issue as to title or right is raised, the examination proceeds. If such issue be raised, a trial is had.

ARTICLE SECOND

Presenting claims, their allowance, rejection and trial; payment of debts, legacies and expenses; sales of real estate by executors, administrators with the will annexed and testamentary trustees under power contained in the will; deposit of money and securities.

§ 2677 [2718]. [Ascertainment of debts.] *Notice to creditors; affidavit of claimant.*

The executor or administrator at any time after the granting of his letters, may insert a notice once in each week for six months in such newspaper or newspapers printed in the county as the surrogate directs, requiring all persons having claims against the deceased to exhibit the same, with the vouchers therefor, to him, at a place to be specified in the notice, at or before a day therein named, which must be at least six months from the day of the first publication of the notice. The executor or administrator may require satisfactory vouchers in support of any claim presented and the affidavit of the claimant that the claim is justly due, that no payments have been made thereon, and that there are no offsets against the same to the knowledge of the claimant. [If the executor or administrator doubts the justice of any such claim, he may enter into an agreement in writing with the claimant to refer the matter in controversy to one or more disinterested persons, to be approved by the surrogate. On filing such agreement and approval in the office of the clerk of the supreme court in the county in which the parties or either of them reside, an order shall be entered by the clerk referring the matter in controversy to the person or persons so selected. On the entry of such order the proceedings shall become an action in the supreme court. The same proceedings shall be had in all respects, the referees shall have the same powers, be entitled to the same compensation, and subject to the same control as if the reference had been made in an action in which such court might, by law, direct a reference. In determining the question of costs the referee shall be governed by sections eighteen hundred and thirty-five and eighteen hundred and thirty-six of this act. Judgment may be entered on the report of the

referee and such judgment shall be valid and effectual in all respects as if the same had been rendered in a suit commenced by the ordinary process, and the practice on appeal therefrom shall be the same as in other civil actions.】 [If a suit be brought on a claim which is not presented to the executor or administrator within six months from the first publication of such notice, the executor or administrator shall not be chargeable for any assets or moneys that he may have paid in satisfaction of any lawful claims, or of any legacies, or in making distribution to the next of kin before such suit was commenced.】*

NOTE.— With provision for jury trial, and judicial settlement at the end of the advertising for creditors, all claims can be tried on judicial settlement, and should be so tried without a right to reference or any action in supreme court. See new §§ 2680, 2681.

* Inserted in new § 2678.

Trial of claims provided for in the sections above named, where right to an action in another court is preserved with certain restrictions.

[§ 2718-a. *Order for presentation and determination of debt or claim.*

Upon the petition of an executor or administrator, after notice of publication to creditors to present claims has been completed, a citation may be issued against any claimant directing him to present his claim to the surrogate for determination at a date not less than three months from the service of the citation upon him. If he shall not have commenced an action against the petitioner upon his claim prior to the return day, the claim shall be deemed forever barred unless on the return day he shall consent to its determination by the surrogate, in which case it shall be so determined. The word claimant within the meaning of this section shall be deemed to include every person claiming to be a creditor of the estate or claiming a right in or lien upon any personal property in the custody of the petitioner or any claim against the petitioner by reason of any act of his in the administration of the estate, or in his representative capacity.]

NOTE.—As judicial settlement can be had at the expiration of notice to creditors, it would seem to be better to repeal this provision.

The real use of the section heretofore was to compel the person who said he had a claim to present it. New § 2678 will now take the delay out of such an alleged claimant.

§ 2678. *Effect of failure to present claim pursuant to notice.*

If a claim against a deceased person be not presented to the executor or administrator within six months from the first publication of the notice to creditors, or, if no notice be published, within one year from the date of issue of letters, the executor or administrator shall not be chargeable for any assets or moneys that he may have paid in satisfaction of any lawful claims, or of any legacies, or in making distribution to the next of kin before such claim was presented.

NOTE.—Re-written from former § 2718. This ought to bring about prompt presentation of all claims.

§ 2679 [2731]. Determination of [claim by surrogate] issues arising between representative and the estate; suspension of statute of limitations in certain cases.

On the judicial settlement of the account of an executor or administrator, he may prove any debt owing to him by the decedent. Where a contest arises between the accounting party and any of the other parties, respecting property alleged to belong to the estate, but to which the accounting party lays claim [either] individually[, or as the representative of the estate]; or respecting a debt alleged to be due by the accounting party to the decedent, or by the decedent to the accounting party, the contest must [except where the claim is made in a representative capacity, in which case it may] be tried and determined in the same manner as any other issue arising in the surrogate's court. From the death of the decedent until the first judicial settlement of the accounts of the executor or administrator, the running of the statute of limitations against a debt due from the decedent to the accounting party, or any other cause of action in favor of the latter against the decedent, is suspended, unless the accounting party was appointed on the revocation of former letters issued to another person, in which case the running of the statute is so suspended from the grant of letters to him until the first judicial settlement of his account. After the first judicial settlement of the account of an executor or administrator, the statute of limitations begins again to run against a debt due to him from the decedent, or any other cause of action in his favor against the decedent.

NOTE.—This section deals almost wholly with matters between the representative and the estate, but the words now cut out in the second sentence seemed to bring in other issues; by their omission the whole section deals with the one subject.

§ 2680. Effect of admission and allowance of claim or debt by representative.

Whenever upon any accounting or judicial settlement of accounts, the executor or administrator admits and allows a claim or debt against the deceased, other than his own claim, or has theretofore in writing admitted or allowed such a claim or debt, the validity of such claim or debt shall be thereby established.

When such a claim or debt has been so admitted or allowed, or a judgment against the executor or administrator has been obtained, whether either has been paid or not, any party adversely affected thereby may file objections thereto and may show that the claim or debt was fraudulently or negligently allowed, or paid, or that the judgment was obtained by fraud, negligence or collusion. If the surrogate shall sustain the objections in a case where the claim or judgment has not been paid, the claim shall be deemed to be rejected by the accountant at the time of such determination, and the time between the presentation of the claim, or the commencement of the action where the claim was not presented, and the time of such determination shall not be a part of the time limited in this act for commencing an action thereon.

NOTE.—This new section makes the allowance of the claim of some value, and fixes its standing as a valid claim unless proof is made as in a case where a judgment has been obtained. If the claim has been paid, and the objections are sustained, the representative will be surcharged — if payment has not been made, the claim will stand as rejected.

§ 2681. Rejected claim to be tried on judicial settlement. Limitation of action by creditor.

If the executor or administrator doubts the justice or validity of any claim presented to him, he shall serve notice in writing upon the claimant that he rejects said claim or some part of it, which he specifies, and that he will submit such claim, or the part of it specified, for trial and determination on the judicial settlement of the accounts of the executor or administrator.

[§ 1822. Limitation of action by creditor on claim rejected, etc.]

[Where an executor or administrator disputes or rejects a claim against the estate of a decedent, exhibited to him, either before or after the commencement of the publication of a notice requiring the presentation of claims, as prescribed by law, u] Unless a written consent shall be filed by the [respective parties with the surrogate] *claimant in the surrogate's office* that said claim [may] be heard and determined [by him] upon the judicial settlement of the accounts of said executor or administrator [as provided by section twenty-seven hundred and forty-three,] the claimant must commence an action for the recovery thereof against the executor or administrator within [six] *three* months after the [dispute or] rejection, or, if no part of the debt is then due, within [six] *two* months after a part thereof become due; in default whereof [he,] *said claimant*, and all the persons claiming under him are forever barred from maintaining such an action thereupon, and from every other remedy to enforce payment thereof out of the decedent's property.

NOTE.—This former § 1822 amended and inserted in this chapter. Original section to be repealed.

See amended § 1836 as to costs.

This section now makes a shorter statute of limitations, and will force more rapid action in settling claims.

§ 2682 [2719]. Payment of debts.

Every executor and administrator must proceed with diligence to pay the debts of the deceased according to the following order:

1. Debts entitled to a preference under the laws of the United States *and the state of New York*.*

2. Taxes assessed on property of the deceased previous to his death.

3. Judgments docketed, and decrees entered against the deceased according to the priority thereof respectively.

4. All recognizances, bonds, sealed instruments, notes, bills and unliquidated demands and accounts.

Preference shall not be given in the payment of a debt over other debts of the same class, except those specified in the third class. A debt due and payable shall not be entitled to a preference over debts not due. The commencement of a suit for the recovery of a debt or the obtaining a judgment thereon against the executor or administrator shall not entitle such debt to preference over others of the same class. Debts not due may be paid according to the class to which they belong, after deducting a rebate of legal interest on the sum paid for the unexpired term of credit without interest. An executor or administrator shall not satisfy his own debt or claim out of the property of the deceased until proved to and allowed by the surrogate; and it shall not have preference over others of the same class. Preference may be given by the surrogate to rents due or accruing on leases held by the testator or intestate at the time of his death, over debts of the fourth class, if it appear to his satisfaction that such preference will benefit the estate of the testator or intestate. [The surrogate may authorize the executor or administrator to compromise or compound a debt or claim, on application, and for good and sufficient cause shown, and to sell at public auction, on such notice as the surrogate prescribes, any uncollectible, stale or doubtful debt or claim belonging to the estate; but any party interested in the final settlement of the estate may show on such settlement that such debt or claim was fraudulently or negligently compromised or compounded.]†

NOTE.— * A recent decision gives the state preference in certain cases.

† Amended so as to allow compromise both ways and inserted in new section 2683.

§ 2683. Surrogate may authorize representative to compromise, or compound, or sell debt or claim.

[The surrogate may authorize an executor or administrator, guardian or trustee to compromise or compound a debt or claim, on application, and for good and sufficient cause shown,] *Upon the application of an executor, administrator, guardian or trustee, the surrogate may, for good cause shown, authorize the compromising or compounding of any debt, claim or demand, due or to become due, which it is necessary to settle, adjust or liquidate in connection with the settlement of an estate or fund; and [to] the selling at public auction, on such notice as the surrogate prescribes, of any uncollectible, stale or doubtful debt or claim belonging to the estate or fund; but any party interested in the final settlement [of the estate] may show on such settlement that such debt or claim was fraudulently [or negligently] compromised or compounded.*

NOTE.— This section taken in substance from former § 2719.

§ 2684 [2717]. Sale of personal property for payment of debts or legacies.

An executor or administrator may sell the personal property of the deceased at any time for the payment of debts, or legacies, or for making distribution, except where a consent is filed as provided in section 2736. [if an executor or administrator discover that the debts against any deceased person or the legacies bequeathed by him cannot be paid and satisfied without a sale of the personal property of the deceased, the same, so far as may be necessary for the payment of such debts or legacies, must be sold. An administrator may sell the personal property of the intestate at any time when it is necessary to do so for the purpose of distribution.] The sale may be public or private, and[, except in the city of New York,] may be on credit not exceeding one year, with approved security. [The executor or administrator is not responsible for any loss happening on the sale when made in good faith and with ordinary prudence.] Articles not necessary for the support and subsistence of the family of the deceased, or not specifically bequeathed, must be first sold; and articles so bequeathed must not be sold until the residue of the personal estate has been applied to the payment of debts.*

NOTE.—* Contained in new § 2733. The parts omitted re-written into first four lines. No reason why New York should be excepted.

§ 2685. Surrogate's court may make direction as to the value, manner and time of sale of property.

Whenever the assets of an estate consist of real property which an executor is authorized to sell, or of personal property which it is necessary or proper to sell and the value of the same is uncertain or is dependent upon the time and manner of sale thereof, the executor or administrator may apply by petition to the surrogate having jurisdiction of the settlement of the estate, for advice and direction as to the propriety, price, manner and time of sale thereof. If the surrogate, in his discretion, entertains the application, notice of such application shall be given to all persons interested or to such persons as the surrogate by order directs to have notice, in such manner as the surrogate shall prescribe. The surrogate shall inquire into the facts and circumstances and may hear the opinions of witnesses as to the value of such property and as to the best manner and time of sale thereof, and may give such advice and direction as shall seem to him for the best interest of the parties. A substantial compliance with the authorization so given shall relieve the said executor or administrator from any charge or objection that the said estate or persons interested suffered a loss on account of the time or manner of sale or the price realized.

NOTE.—This is a new provision drawn to meet conditions often arising which usually result in a loss to the estate through fear of the sale being attacked on accounting.

§ 2686. *Proceeding to compel payment of funeral expenses.*

Every executor or administrator shall pay, out of the first moneys received, the reasonable funeral expenses of decedent, and the same shall be preferred to all debts and claims against the deceased. If the same be not paid within sixty days after the grant of letters testamentary or of administration, the person having a claim for such funeral expenses may present to the surrogate's court a [duly verified] petition praying that the executor or administrator may be cited to show cause why he should not be required to make such payment [and a citation shall be issued accordingly]. If upon the return of [such] the citation it shall appear that the executor or administrator has received moneys belonging to the estate which are applicable to the payment of the claims for funeral expenses, *and that the executor or administrator admits the validity of the claim or claims and the reasonableness of the amount thereof, the surrogate shall make an order directing the payment of the same, or of such part thereof as he may specify, within ten days thereafter. If the executor or administrator files an answer setting forth the facts, and therein disputes the validity of the claim or claims, or the reasonableness of the amounts thereof, the surrogate shall direct that the claim or claims so disputed be heard upon the judicial settlement of the accounts of such executor or administrator. [the surrogate shall, unless the validity of the claim and the reasonableness of its amount are admitted by such executor or administrator, take proof as to such facts, and if satisfied that such claim is valid shall fix and determine the amount due thereon and shall make an order directing the payment within ten days after the service of such order with notice of entry thereof, upon such executor or administrator of such claim or such proportion thereof as the money in the hands of the executor or administrator applicable thereto, may be sufficient to satisfy.]* If it shall appear that no money has come into the hands of the executor or administrator the proceeding shall be dismissed without costs and without prejudice to a further application or applications showing that since such dismissal the executor or administrator has received money belonging to the estate. [Such application shall be made upon a duly verified] *At any time after three months from the date of the former order, if no answer was filed disputing such claim, a further application may be made by petition stating the facts upon which the*

belief of the petitioner that there are moneys in the hands of such executor or administrator applicable to the payment of his claim, is based. Upon such further application the issuance of the citation shall be in the discretion of the surrogate [and no such application shall be made less than three months after the granting or denial of any previous application]. If upon any accounting it shall appear that an executor or administrator has failed to pay a claim for funeral expenses, the amount of which has been fixed and determined by the surrogate, as above set forth, or upon such accounting, he shall not be allowed for the payment of any debt or claim against the decedent until said claim has been discharged in full; but such claim shall not be paid before expenses of administration are paid.

NOTE.—See 75 Misc. 79-97.

Part of former § 2729, re-written. If the claim is disputed it ought not to be tried until all interested parties are in court, hence, in such case, trial is postponed until judicial settlement.

§ 2687. Proceeding to compel payment of debt, legacy or distributive share, or delivery of property.

Where the executor or administrator has not begun the publication of the notice to creditors to present their claims, and three months have elapsed since the probate of the will or grant of letters of administration, any creditor of the deceased having a claim which has not been rejected, or any person entitled to a specific bequest or to a legacy or other pecuniary provision under a will, or to a distributive share of an estate, may present to the surrogate's court a petition setting forth the facts and praying that a citation issue directing the executor or administrator to show cause why he should not pay said claim or pay or satisfy such bequest, legacy or distributive share.

Upon the return of such citation the executor or administrator may reject such claim, or show good and sufficient cause why he should not pay such claim, or pay or satisfy such bequest, legacy or distributive share in whole or in part.

The surrogate may dismiss such petition, or direct payment or satisfaction thereof in whole or in part, or upon giving the bond as provided in section 2636 of this chapter.

NOTE.—Former § 2722 is to be repealed because with a judicial settlement possible in about six months, or at the end of a year at the longest, the provision for application for payment of debt seems useless,—application for an accounting should be made. Every representative should advertise for claims, but as some will not, this section has been written to afford relief in such cases, and incidentally in cases where specific property has not been delivered.

If the representative sees fit not to advertise for claims, he ought to be ready to pay any just claims at the end of three months.

§ 2688 [2721]. **Payment of legacies.**

No legacy shall be paid by an executor, or administrator *with the will annexed, before the completion of the publication of notice to creditors if such notice be published, or if none be published before [until after] the expiration of one year from the time of granting letters testamentary or of administration, unless directed by the will or by a decree on an accounting to be sooner paid.* [If directed to be sooner paid, the executor] *Bequests of specific articles of property, other than securities representing money, may be delivered at any time in the discretion of the executor. Whenever a legacy is directed by the will to be sooner paid, or specific property is bequeathed, the executor or administrator may require a bond, with two sufficient sureties, conditioned, that if debts against the deceased duly appear, and there are not other assets to pay the same, and no other assets sufficient to pay other legacies, then the legatees will refund the legacy so paid, with interest thereon or such ratable portion thereof with the other legatees, as may be necessary for the payment of such debts, and the proportional parts of such other legacies, if there be any, and the costs and charges incurred by reason of the payment to such legatee, and that if the [probate of the] will, under which such legacy is paid, be denied probate on appeal or otherwise [revoked, or the will declared void.] that such legatee will refund the whole of such legacy, with interest, to the executor or administrator entitled thereto. [After the expiration of one year, the executors or administrators must discharge the specific legacies bequeathed by the will and pay the general legacies, if there be assets. If there are not sufficient assets, then an abatement of the general legacies must be made in equal proportions. Such payments shall be enforced by the surrogate in the same manner as the return of an inventory, and by a suit on the bond of such executor or administrator whenever directed by the surrogate.]*

NOTE.—Provision for judicial settlement at expiration of notice, makes legacies payable then.

Last part omitted as first part of section changes the rule.

[§ 2722. Petition to compel payment; hearing; decree.

In either of the following cases a petition may be presented to the surrogate's court, praying for a decree directing an executor or administrator to pay the petitioner's claim, and that he be cited to show cause why such a decree should not be made:

1. By a creditor, for the payment of a debt, or of its just proportional part, at any time after six months have expired since letters were granted.

2. By a person entitled to a legacy, or any other pecuniary provision under the will, or a distributive share, for the payment or satisfaction thereof, or of its just proportional part, at any time after one year has expired since letters were granted.

3. By the attorney-general in any case where a decedent died intestate as to any of his estate, leaving no known heirs or next of kin.

On the presentation of such a petition, the surrogate must issue a citation accordingly; and on the return thereof, he must make such a decree in the premises as justice requires. But in either of the following cases the decree must dismiss the petition without prejudice to an action or an accounting, in behalf of the petitioner,

1. Where the executor or administrator files a written answer, duly verified, setting forth facts which show that it is doubtful whether the petitioner's claim is valid and legal, and denying its validity or legality absolutely, or on information and belief.

2. Where it is not proved, to the satisfaction of the surrogate, that there is money or other personal property of the estate applicable to the payment or satisfaction of the petitioner's claim, and which may be so applied without injuriously affecting the rights of others entitled to priority or equality of payment or satisfaction.]

§ 2689 [2804]. Petition to compel payment of [debt,] legacy or delivery of property, etc., by a testamentary trustee.

Where a person is entitled, by the terms of the will, to the payment of money, or the delivery of personal property, by a testamentary trustee, he may present to the surrogate's court a [written] petition, [duly verified,] setting forth the facts which entitle him to the payment or delivery, and praying for a decree, directing payment or delivery accordingly; and that the testamentary trustee *and all other persons whose rights or interests would be affected by the decree* may be cited to show cause, why such a decree should not be made. If the petitioner is so entitled, only upon the happening of a contingency, or after the expiration of a certain time, he must show in his petition, that his right to the money or other property has become absolute. [Upon the presentation of the petition, the surrogate must issue a citation accordingly.]

NOTE.—The new matter taken from § 2806 and that section repealed.

§ 2690 [2805]. *Id.*; proceedings upon return of citation.

Upon the return of a citation, issued as prescribed in the last section, [if the testamentary trustee files a written answer, duly verified, setting forth facts, which show that it is doubtful, whether the petitioner's claim is valid and legal, and denying its validity or legality, absolutely or upon his information and belief, a decree must be made, dismissing the petition, without prejudice to an action in behalf of the petitioner for an accounting; otherwise] the surrogate must hear the allegations and proofs of the parties, and must make such a decree in the premises, as justice requires. In a proper case, the decree may require the testamentary trustee, who is unable to deliver personal property to which the petitioner is entitled, to pay the value thereof.

NOTE.—In line with the enlarged jurisdiction of the court it would seem wise to prevent the dismissal of the proceeding, but let the surrogate determine under his general jurisdiction what relief shall be granted.

§ 2691 [2723]. Decree for payment of legacy, et cetera, on giving security.

[In a case specified in subdivision second of the last section the surrogate may, in his discretion, entertain the petition at any time after letters are granted, although a year has not expired.] *Whenever a person who will be entitled to the payment or satisfaction of any testamentary provision, or distributive share, is in actual need of the same or of some part thereof for his support or education, he may present to the surrogate's court his petition setting forth the facts, and thereupon, in the discretion of the surrogate, a citation may issue to the executor, administrator or testamentary trustee to show cause why the prayer of the petition should not be granted.* [In such a case, i]f it appears on the return of the citation, [that a decree for payment may be made, as prescribed in the last section; and] that the amount of money and the value of the other property in the hands of the [executor or administrator] *respondent* applicable to the payment of debts, legacies and expenses, exceeds, by at least one-third the amount of all known debts and claims against the estate, of all legacies which are entitled to priority over the petitioner's claim and of all legacies or distributive shares of the same class; and that the payment or satisfaction of *any testamentary* [the legacy, pecuniary] provision or distributive share, or some part thereof, is necessary for the support or education of the petitioner, *whether adult or infant, or of his family*, the surrogate may, in his discretion, make a decree directing payment or satisfaction accordingly, on the filing of a bond, *as provided in section 2688 of this title.* [approved by the surrogate, conditioned as prescribed by law with respect to a bond which an executor, or an administrator with the will annexed, may require from a legatee on payment or satisfaction of a legacy, before the expiration of one year from the time when letters were issued, pursuant to a direction to that effect contained in the will.]

NOTE.—Reference made to adult so that the section could not be construed as applying only to a minor. His family also included.

NOTE.—Former § 2723 re-written, and made similar to new § 2688 as to bond requirement.

There are now the following provisions:

Application for payment of debt, legacy, etc., after three months, if no notice to creditors is being published, and there is sufficient property, and the right is undisputed.

Compulsory payment at the termination of advertisement for creditors, or at the end of a year, with right to deliver property before that time at the discretion of the executor, or upon giving bond.

Compulsory payment by a testamentary trustee when due.

Discretionary advancement for support, either with or without bond.

§ 2692. *Payment of expenses incurred by representative.*

An executor, administrator, guardian or testamentary trustee may pay from the funds or estate in his hands, from time to time, as shall be necessary, his legal and proper expenses of administration necessarily incurred by him, including the reasonable expense of obtaining and continuing his bond and the reasonable counsel fees necessarily incurred in the administration of the estate. Such expenses and disbursements shall be set forth in his account when filed, and settled by the surrogate.

NOTE.—In theory now many payments of such character must be made from personal funds, although in practice, they are not. It is better to authorize the common practice.

§ 2693. *Power and duty of executor before probate.*

An executor named in a will has no power to dispose of any part of the estate of the testator before letters testamentary are granted, except to pay funeral charges, nor to interfere with such estate in any manner further than is necessary for its preservation.

NOTE.—This section taken from former § 2613.

§ 2694. *Power to sell, mortgage or lease real estate may be executed by qualifying executors.*

Where any power[s] to sell, mortgage or lease real estate or any interest therein, [are] is given to executors as such, or as trustees, or as executors and trustees, and any of such persons named as executors shall neglect to qualify, then all sales, mortgages and leases under said power[s] made by the executors who shall qualify shall be equally valid as if the other executors or trustees had joined in such sale.

NOTE.—This section taken from former § 2642.

§ 2695. Administrators with the will annexed; rights, powers and duties.

Where letters of administration with the will annexed are granted, the will of the deceased shall be observed and performed; and the administrators with such will have the rights and powers, and are subject to the same duties, as if they had been named as executors in the will.

Where power to mortgage, lease or sell real estate is given by a will to an executor or trustee, an administrator with the will annexed or a successor trustee may execute such power in any case where the original executor or trustee could execute the same, unless contrary to the express provisions of the will.

NOTE.—The last sentence added to change the confusion arising from the many cases holding that a discretionary power of sale does not pass to an administrator C. T. A. or successor trustee. First sentence taken from former § 2613.

§ 2696. Power to sell, mortgage or lease real estate may be executed by qualifying trustees or successors.

Where any powers to sell, mortgage or lease real estate or any interest therein, are given to trustees, and any of such persons named as trustees shall neglect to qualify, then all sales, mortgages and leases under said powers made by the trustee or trustees who shall qualify shall be equally valid as if the other trustees had joined in such sale. Where a successor trustee has been appointed by the court, or is named in a will, he shall have the same powers as to such real estate as the trustee or trustees had who were named in the will, unless the exercise of such power would be contrary to the express provision of the will.

NOTE.—This section is in line with the last part of former § 2694, which relates to executors. The last sentence is added to obviate a constant difficulty arising where a successor is appointed.

§ 2697 [2801-a]. Conveyance of real estate by executor or administrator to holder of contract of sale made by a decedent.

When a person dies seized of the legal title to lands in this state, and another person [claims to] holds the beneficial interest in an executory contract made by the decedent for the sale and conveyance of such lands to the vendee therein named, or to his successors in interest, the execution and delivery of a deed of such real estate by the executor or administrator of the decedent's estate, to the holder of said contract, having the effect of conveying all of the right, title and interest of the decedent at the time of his death in and to said lands, may be made by [authorized and compelled upon the application of] such executor or administrator upon receiving the full amount due or to become due upon such executory contract. Such conveyance shall effectually convey the legal title of all persons who acquired the same, or any interest therein, by descent or devise, and shall discharge the said deceased and his estate from all obligation or liability under said contract. The deed or conveyance so executed shall be made by the executor or administrator, as the case may be, of the said deceased and shall recite therein that it is made pursuant to the authority of this section, and shall contain a copy of or the substance of the said executory contract and shall state that such deed or conveyance is made in compliance with and in fulfillment of such contract, and shall state that it conveys the legal title to the lands described which the deceased had at the time of his death, together with all of the legal title or interest therein which passed from the said deceased by descent or devise to certain persons giving their names and post-office addresses, according to the best information obtainable. [upon the conditions and in the manner hereinafter provided. Upon receiving written notice of any such claim, subscribed by the claimant and requesting that proceedings be instituted under the provisions of this section, and containing particulars as to the date of the contract, the amount of the purchase price, the time or times when installments thereof were or will become due and payable, the sum, if any, admitted to be still due or unpaid thereon, a description of the lands in question and a statement of any other condition applying to the vendee, the executor or administrator may, in his discretion, apply to the surrogate from whose court his letters were issued, for an order authorizing and directing him to execute a deed of such lands to the person entitled thereto upon such terms as the court may prescribe. The

executor or administrator may, in his discretion, accept from the claimant a deposit of money to secure the estate for any costs and expenses of the application; such money to be retained by the executor or administrator to the extent of any costs or expenses thus paid or incurred only in the event that the claimant neglects unreasonably to tender performance of his part of the contract, or to be ready and willing to perform when requested, pursuant to the order, if any, to be entered on such application. The application shall be by petition, duly verified, which shall set forth the facts hereinabove provided to be contained in said notice, and such other facts in relation to said matter as may have come to the knowledge of the executor or administrator, together with the names of the decedent's heirs, devisees and surviving husband or wife, if any, and of all persons claiming under them or either of them, so far as known, and shall pray for a citation to all such heirs, devisees, wife, widow or persons, requiring them to show cause before said surrogate why an order should not be entered authorizing such conveyance. Upon the return of such citation and after hearing the proofs in support of the petition, or in opposition thereto, the surrogate shall make such order as justice requires. If it is found that the enforcement of said contract at law would be subject to a valid defense, in favor of any party to said proceeding, the petition shall be dismissed. If it is found that such contract is valid and in force and that the vendor had not, in his lifetime, effectually conveyed his interest in said lands in fulfillment thereof, the order shall direct such conveyance to be made by the executor or administrator, upon receiving the balance of the purchase price, when due, if there be any such unpaid balance, which amount shall be specified in the order, or upon the compliance by the claimant with any other condition imposed on him by the contract. Under such order, if the purchase money on the contract is not due and the claimant elects to pay the whole amount thereof, before maturity, the executor or administrator shall receive the same and shall thereupon execute and deliver the deed hereinabove provided for. A conveyance made in pursuance of such order shall be binding on all of said persons in interest who were duly cited in the proceeding. An order dismissing the petition shall not prejudice the right of the claimant under said contract to a civil action for specific performance nor to any other remedy then existing at law or in equity; but the delivery and acceptance of a deed of conveyance

executed in pursuance of an order granted as prescribed in this section shall be deemed a complete fulfillment of such contract. An order directing a conveyance under the provisions of this section may be enforced, at the instance of the person entitled to such conveyance, by contempt proceedings in the manner provided for the enforcement of a decree under section twenty-five hundred and fifty-five of this act, provided it is shown that such person tendered performance of his part of the contract, or was ready and able to perform when requested, within a reasonable time after the order was entered. Upon such a proceeding costs and disbursements may be allowed and included in the order, payable from the estate, in the sums specified in section twenty-five hundred and sixty-one of this act.]

NOTE.—All after the new matter in this section to be repealed.

Where the deceased person has made a contract to convey real estate such contract and the money received under it is defined to be personal estate (§ 2672) and therefore the heirs or devisees as such have no interest in the property except that they hold legal title. There seems to be no good reason why the representative should not upon his own responsibility in a proper case execute a deed which will fulfill the contract of the deceased person as simply as he could discharge a mortgage. He must assume the responsibility that the contract is good and enforceable and that he gets all of the money due under it. The heirs or devisees have nothing but the naked legal title and we have ample precedent in the cases of sheriffs, referees and receivers where the legislature has delegated the power to public officers to execute a conveyance of real property. The former section was so technical and expensive in its operation that in many actual cases people entitled to the deeds could not obtain them even though all of the interested parties consented, on account of the fact that the heirs were often scattered or incompetent to execute a deed.

§ 2698 [2602]. Surrogate may direct as to custody, where co-executors, etc., disagree.

Where two or more co-executors or co-administrators disagree, respecting the custody of money or other property of the estate; or two or more testamentary trustees or guardians of the property disagree, respecting the custody of money or other property, belonging to a fund or an estate which is committed to their joint charge; the surrogate may, upon the [application] *petition* of either of them, or of a creditor or person interested in the estate, and proof, by affidavit, of the facts, make an order, requiring them to show cause, why the surrogate should not give directions in the premises. Upon the return of the order, the surrogate may, in his discretion make an order, directing that any property of the estate or fund be deposited in a safe place, in the joint custody of the executors, administrators, guardians, or testamentary trustees, as the case requires, or subject to their joint order; or that the money of the estate be deposited in a specified safe bank or trust company, to their joint credit, and to be drawn out upon their joint order. [Disobedience to such a direction may be punished as a contempt of the court.]

NOTE.—The last sentence is already covered by power to remove or to punish for contempt.

§ 2699 [2537]. Money paid into court and securities taken; how disposed of.

Where a statute requires the payment of money into, or the deposit of a security with the surrogate's court, or the deposit of a security for the payment of money with the surrogate, the same must be paid to or deposited with the county treasurer of the county to the credit of the beneficiary, or of the estate, or of the special proceeding[s]; unless the statute contains special directions for another disposition thereof. Each security so deposited with the county treasurer must be held and disposed of by him, subject to the direction of the surrogate's court; except that he must, unless otherwise so directed, collect the principal and interest secured thereby. All money collected by or paid to the county treasurer, as prescribed by this section, must be held, managed, invested and disposed of by him, in like manner as money paid into the supreme court in an action pending therein. The regulations contained in the general rules of practice as specified in subdivision 8 of section 4 of the State Finance Law, and the provisions of title third, of chapter eighth of this act, apply to money paid to and securities deposited with the county treasurer, as prescribed in this section; except that the surrogate's court exercises, with respect thereto, or with respect to a security, in which any of the money has been invested, or upon which it has been loaned, the power and authority conferred upon the supreme court by section seven hundred and forty-seven of this act.

§ 2700. Deposit of securities may be ordered on revocation of letters.

When, upon the revocation of the letters of an executor, administrator or guardian, or the removal of a testamentary trustee, a decree shall be made in which such executor, administrator, guardian or testamentary trustee is personally charged with or directed to pay a sum of money upon a finding that he has made an unlawful investment or disposition of the estate or fund in his hands, and the security or other instrument by which such investment or disposition is evidenced, or the property in the purchase of which such investment or disposition has been made, shall not be a part of the assets which his successor may be legally required to receive, the decree shall direct that such security or other instrument, or such property, if practicably capable of delivery under such direction, be forthwith deposited with a safe deposit company, authorized by law to do business as such, in such manner as to prevent the withdrawal of the same except upon the order of the surrogate.

NOTE.—This new section enables the surrogate to retain control of the securities, and permit their sale only upon application of the proceeds upon the decree. Heretofore the representative could take the securities and never satisfy the decree.

ARTICLE THIRD

Applying rents and the proceeds of mortgage, lease or sale of real estate to the payment of debts, funeral and administration expenses, and charges upon real estate; sale for distribution and conveyance in confirmation of title.

§ 2701. *When rents of real estate may be applied in the same manner as proceeds of mortgage, lease or sale.*

Whenever it shall appear to an executor or administrator that it will be necessary to resort to a mortgage, lease or sale of all of the real estate, or interest therein, left by the deceased person for the purposes specified in section 2703 of this title, such executor or administrator may petition the surrogate's court for leave to enter into possession of said real property and manage and control the same and receive the rents thereof. Thereupon a citation shall issue to all known persons within the state of New York who have the legal title to such real estate by descent or devise to show cause why the prayer of the petition should not be granted. Upon the return of the citation the surrogate may, in his discretion, grant the prayer of such petition upon such terms and conditions as justice shall require. The net rents so collected shall be held by the executor or administrator and be brought into court upon the judicial settlement of the accounts of such executor or administrator and there disposed of as provided in section 2711 of this title for the disposition of proceeds of mortgage, lease or sale of real estate.

NOTE.—It has always worked out as an injustice to creditors that the heir or devisee should be able to collect rents for many months from real estate which equitably belonged to the creditors. It has also worked injustice to resident and competent part owners that their interests should be sold when a few months rent would have discharged all the debts. Therefore, it has seemed to be wise and just, and within the power of the court, to authorize the representative to enter into possession of the real estate, when all of it may eventually be required to be mortgaged, leased or sold, and to collect the rents and bring them into court upon his judicial settlement to be accounted for and applied as may be necessary. This plan will also put someone in charge of real estate owned by non-residents, absentees or incompetents, where now no one has the right to collect the rents.

[§ 2749. What property subject to this title.

Real property, of which a decedent died seized, and the interest of a decedent in real property, held by him under a contract for the purchase thereof, made either with him, or with a person from whom he derived his interest, may be disposed of, for the payment of his debts and funeral expenses, or for the payment of judgment liens existing thereon at his death, as prescribed in this title; except where it is devised, expressly charged with the payment of debts or funeral expenses, or is exempted from levy and sale by virtue of an execution, as prescribed in title second of chapter thirteen of this act. The expression "funeral expenses," as used in this title, includes a reasonable charge for a suitable headstone.]

NOTE.—This section re-written and divided into two sections following.

§ 2702. What property subject to disposition for the payment of debts, funeral and administration expenses.

The real property, or interest in real property, of which a decedent died seized, may be disposed of as prescribed in this title; except where it is exempted from levy and sale by virtue of an execution as prescribed in title second of chapter thirteen of this act, or where it can be disposed of under a valid power contained in a will for the purpose for which the same might be disposed of under this title.

But no such property, or interest in property, shall be mortgaged, leased or sold under a decree in surrogate's court to satisfy any claim, debt, or demand, unless a proceeding for a judicial settlement, or to compel a settlement, of the accounts of an executor or administrator shall have been commenced within eighteen months from the date when letters first issued to an executor or administrator.

NOTE.—As the proceeding now conforms to the principles of a power of sale, a change is made in the last part so that it cannot be used where there is a valid power of sale. A debt or legacy may be "charged" on the real property, and an action be necessary to collect it.

The last part of the section limits the time of the "lien." By having a final judicial settlement the duration of the lien will be short.

A person who presents his claim within the eighteen months can require a judicial settlement; where the claim is not presented he must proceed against the heirs. (§§ 1837, etc.)

§ 2703. For what purposes real property is subject to disposition.

The real property specified in section 2702 of this title may be mortgaged, leased or sold for any or all of the following purposes:

1. *For the payment of the debts of the decedent, including judgment or other liens, excepting mortgage liens, existing thereon at the time of his death.*

2. *For the payment of his funeral expenses, including therein suitable church or other services, a burial lot and a headstone erected thereon.*

3. *For the payment of the reasonable expenses of administration as allowed by the surrogate.*

4. *For the payment of any transfer tax assessed upon the transfer of such property.*

5. *For the payment of any debt or legacy charged thereupon.*

No mortgage, lease or sale shall be ordered for the purpose of any of the foregoing payments, if there be personal property applicable to the full payment and discharge thereof.

6. *For the payment and distribution of their respective shares to the parties entitled thereto, where any or all of said parties are infants, proven or adjudged incompetents, absentees, or persons unknown, whenever in his discretion the surrogate may so direct.*

NOTE.—Subd. 6 is inserted so that sale may be had on judicial settlement for distribution and so prevent partition.

Section 224 of the Tax Law provides for sale to pay transfer tax by means of this proceeding.

Expenses of administration are included because the executor or administrator is charged with the duty of making the sale, and he should have his expenses of procuring his appointment, advertising, inventory, etc.

There must be a representative, and he must administer on the estate in the interest of the creditors, therefore, his expenses must be paid.

§ 2704 [2765]. Sale to be refused if bond be given.

An order [A decree] empowering an executor or administrator to mortgage, lease or sell shall not be granted if any of the persons interested in the estate execute and file in the surrogate's office a bond [give bonds to the surrogate] in such sum and with such sureties as the surrogate directs and approves, with condition to pay all the debts, legacies or debts charged upon or payable from the proceeds of the sale of real estate, [and] expenses of administration and other claims and demands proved and allowed so far as the goods, chattels, rights and credits of the deceased are insufficient therefor, within such time as the surrogate may direct. Except that in a proper case the real estate may be sold for the purpose of distribution of the proceeds as provided in subdivision six of section 2703, notwithstanding the giving of such bond.

§ 2705. When and how real property may be mortgaged, leased or sold.

Upon a judicial settlement of the accounts of an executor or administrator, any party to the proceeding may allege and show by proof that the personal property left by the decedent is insufficient for the payment of the just demands and charges against the same; or that the circumstances are such that the court has jurisdiction to order the mortgage, lease or sale of the real property left by the deceased for any of the reasons specified in section 2703. The petition and account filed in the proceeding shall be sufficient proof of the facts therein stated unless an issue is raised as to any of such statements. If any person interested in such real estate or in any question raised with reference to the mortgage, lease or sale thereof is not a party to such judicial settlement, the surrogate, before proceeding further shall cause such person to be brought in by supplemental citation.

NOTE.—Instead of a separate proceeding with its attendant delay and expense, the mortgage, lease or sale is made a part of the judicial settlement when generally all interested parties are before the court. All of the questions arising can then be determined in one decree, and the rights and interests of all parties, both in the personal and real estate, can be properly protected.

§ 2706. Trial and determination of claims and expenses; statute of limitations.

If any claim, demand, charge, or expense set forth in the account or presented on the judicial settlement is objected to by any party to the proceeding whose interest will be affected by its allowance or disallowance, such claim, demand, charge or expense shall be proved, notwithstanding its admission or allowance by the executor or administrator. Where a defense arises under the statute of limitations as to a claim so admitted or allowed the said claim shall be deemed to be rejected by the executor or administrator at the time of such objection, and the time between the presentation of the claim or the commencement of an action where the claim was not presented, and the time of such objection shall not be a part of the time limited in this act for commencing an action thereon.

A judgment recovered against the executor or administrator upon a claim against decedent shall be prima facie evidence and proof of the claim against the real property of decedent, and the burden of disproving such judgment or of proving that the claim upon which it was rendered is invalid, or that the judgment was obtained by collusion, shall be upon the party disputing or objecting to the same.

NOTE.— Repeal § 2755, a part of that section being included in the above.

§ 2707 [2757]. Order to mortgage, lease or sell.

[If it shall appear to the satisfaction of the surrogate that the personal estate of the decedent is insufficient for the payment of his debts and funeral expenses, the surrogate shall make a decree empowering the executor or administrator to mortgage, lease or sell the whole or such part of the real property or interest of the decedent in real property as the surrogate shall deem necessary for the payment thereof. The surrogate may limit the amount to be sold and afterward extend the power to other parcels and direct the order of the sale of parcels and may direct whether the same be mortgaged, leased, or sold, for the purpose of preserving all the rights and equities of the parties and preventing any unnecessary disposition of such real property; and may limit the amount to be raised thereby. The decree must describe the property to be sold with common certainty.] *If it shall appear that it is a proper case for the disposition of the decedents' real estate, as provided in this title, on account of deficiency of personal estate, the surrogate shall make an order reciting the determination made, the amount and general nature of the various claims and demands which have been admitted or proved, a description of the property to be disposed of, and directing the executor or administrator to mortgage, lease or sell the whole or such part of the real property or interest therein, as the surrogate therein directs.*

If it appears that any one or more distinct parcels of which the decedent died seized has been devised by him or sold by his heirs the decree must provide that the several distinct parcels be sold in the following order:

1. Property which descended to the decedent's heirs and which has not been sold by them.
2. Property so descended which has been sold by them.
3. Property which has been devised which has not been sold by the devisee.
4. Property so devised which has been sold by the devisee.

[If it shall appear to the satisfaction of the surrogate that the decedent left no known heirs-at-law, or if the surrogate is unable to determine whether there are heirs-at-law entitled to inherit, the sale must be directed to be held at public auction, and due notice of the sale shall be directed and given to the attorney-general.]

Where an order is made directing the sale of the property, or interest, for distribution only, the order shall fix and determine the rights and interests of the respective parties therein, and if

a person entitled to an estate or interest in the property sold is made a party as a person unknown, the court must provide for the protection of his rights, as far as may be, as if he were known and had appeared.

The proceeds of the sale of any real property sold by judgment of another court, which directs said proceeds to be paid into the surrogate's court subject to its order, may be directed by such order of the surrogate to be paid to the executor or administrator to be brought into the account on such judicial settlement and disposed of in accordance with the decree made thereupon.

After making the order for mortgage, lease or sale, the surrogate shall adjourn the judicial settlement to await the proceedings taken under the order.

NOTE.—The order may do any one or all of three things: direct a mortgage, lease or sale on account of deficiency of personal estate, direct a sale for the purposes of distribution, or direct payment to the representative, of any proceeds already held by the court subject to the order of the surrogate court.

§ 2708 [2758]. Duty of executor or administrator to execute order after filing bond.

[It shall be the duty of the executor or administrator to execute the power conferred upon him by a decree] Before proceeding to execute the order directing that property be mortgaged, leased or sold [; but he] the executor or administrator must first execute and file with the surrogate his bond, with two or more sureties, to the people of the state in a penalty fixed by the surrogate, [not less than twice the sum to be raised, or the value of the real property, or interest in real property, directed to be sold.] [The bond must be] conditioned for the faithful performance of the duties imposed upon the principal by the [decree] order and for the accounting by the principal for all moneys received by him whenever he is required so to do by a court of competent jurisdiction; unless the order directs that the proceeds of sale or mortgage be paid by the purchaser or mortgagee to a bank or trust company to the credit of the executor or administrator, subject to the further order of the court.

NOTE.—Instead of having the money paid to the representative, the order may direct its payment directly to a bank or trust company.

§ 2709. Order to be executed and report made.

The executor or administrator shall thereupon execute the decree, subject to the approval of the court, and make a report of his proceedings thereunder. The surrogate may confirm or reject the mortgage, lease or sale, extend the order to other parcels, or require a re-execution of the order upon such terms and on such conditions as he may direct, and he may relieve a purchaser from his purchase in a case where he might be so relieved in the supreme court, on such terms as justice shall require.

NOTE.—Many good lawyers hold the belief that the sale should be confirmed, and this section provides for that. It brings the execution of the order before the court for ratification.

§ 2710 [2760]. Execution of order not affected by death, et cetera.

The death, removal, or disqualification, before the complete execution of [a decree] *the order*, of all the executors or administrators does not suspend or affect the execution thereof; but the successor of the person who has died, been removed, or become disqualified, must proceed to complete all unfinished matters, as his predecessors might have completed the same; and he must give such security for the due performance of his duties as the surrogate prescribes.

§ 2711. Execution of the order; decree of judicial settlement; conveyance to heirs.

When the order has been fully executed, the executor or administrator shall file, on or before the adjourned day of the judicial settlement, a supplemental account setting forth his proceedings under the order, the amount of the proceeds of the sale, and his expenses incurred thereunder. The surrogate shall thereupon continue and complete such judicial settlement and make such a disposition of the funds in the hands of the executor or administrator as justice shall require.

Where it is not necessary or advantageous to mortgage, lease or sell the real property of the deceased or of the estate, the parties interested may prove upon any such judicial settlement who are the real and true owners of any property devised by said will, or who are the only heirs-at-law of said deceased and entitled to succeed to his real estate, and thereupon such decree of judicial settlement may establish the rights and interests of the said parties and direct a conveyance to them by such executor or administrator according to their respective rights, in confirmation of their title thereto.

NOTE.—The last part of the section will accomplish much saving to interested parties, avoiding partition in many cases, and making a record title. The best time to determine who are the heirs-at-law is on judicial settlement when all the parties having the required knowledge are before the court.

§ 2712 [2764]. Allowance on bid to creditor purchasing.

If, upon a sale for any purpose other than the distribution of the proceeds to the parties entitled thereto, a creditor of the decedent becomes the purchaser of any of the decedent's real property, the surrogate may, upon his application, direct the amount of his claim to be allowed, in the first instance, upon the purchase price; and such purchaser shall only be required to pay the balance at the time of the sale. But, in case the proceeds of the decedent's real property shall be insufficient to satisfy the cost and expenses of administration and the debts and funeral expenses of the decedent, the purchasing creditor shall be allowed and credited, upon the judicial settlement of the accounts of the executor or administrator, only the amount he may be entitled to receive upon his claim and shall then pay the difference between the amount originally allowed and the amount he is entitled to receive. In case any purchaser has credit on his bid, as aforesaid, no deed shall be delivered to him until the judicial settlement of the accounts of the executor or administrator nor until he shall have paid the entire amount required under the provisions of this section.

§ 2713. Provision for payment of undetermined claims and debts not yet due.

If any claim remains undetermined at the making of the decree, or any debt is not yet due and the party holding the same does not consent to its present payment, the decree shall direct that sufficient funds be retained by the executor or administrator to meet any such claim or demand when determined, or when payable, and provide for the distribution of any surplus of the amount so retained.

NOTE.—This provides for a case mentioned in § 2751 which will be repealed.

[§ 2774. Who not to purchase.

An executor or administrator upon the estate, a freeholder appointed to execute a decree, or a general or special guardian of an infant, who has an interest in any of the real property to be sold, shall not directly, or indirectly, purchase, or be, or at any time before confirmation, become interested in a purchase at the sale; except that a guardian may, when authorized so to do by the order of the surrogate, purchase in his name of office for the benefit of his ward. A violation of this section renders the purchase void.]

NOTE.—By repealing this section we leave the right to purchase to be governed by the general rules applicable to trustees dealing with a trust estate.

§ 2714 [2777]. When conveyance not to affect purchaser or mortgagee from heir, etc.

A conveyance of real property, made pursuant to this title, does not affect, in any way, the title of a purchaser or mortgagee, in good faith and for value, from an heir or devisee of the decedent, unless letters testamentary or letters of administration, upon the estate of the decedent, were granted, by a surrogate's court having jurisdiction to grant them, upon a petition therefor, presented within [four] *two* years after his death.

§ 2715 [2782]. Effect of conveyance of decedent's interest under contract.

A conveyance of the decedent's interest in all the real property, held by him under a contract for the purchase thereof, operates as an assignment of the contract to the purchaser; and vests in him, his heirs and assigns, all the right, title and interest of all the persons entitled, at the time of the sale, in and to the decedent's interest in the real property.

[§ 2783. Id.; effect of conveyance of part.]

A conveyance of the decedent's interest in a part only of the real property, held under such a contract, transfers to the purchaser all the decedent's right, title and interest in and to the part so sold; and all rights, which would be acquired thereto, by the executor or administrator, or by any person entitled, at the time of the sale, to the interest of the decedent therein, by perfecting the title to the property contracted for, pursuant to the contract. Upon fully complying with the contract, the purchaser has the same right to enforce performance thereof, with respect to the part conveyed to him; and the executor or administrator, or his assignee, has the same right to enforce performance, with respect to the residue, as the decedent would have had, if he was living. Any title acquired by the executor or administrator, or his assignee, with respect to the part not sold, must be held in trust for the use of the persons entitled to the decedent's interest; subject to the dower of the widow, if any.

§ 2716 [2785. Id.;]. Presumption where records have been removed.

Where the records of the surrogate's court have been heretofore, or are hereafter removed from one place to another, in either the same or another county *or the records of such proceeding have been lost or destroyed* and twenty-five years have elapsed after a sale or other disposition of real property, or of an interest in real property, as prescribed in this title, the due appointment of a guardian for each infant party to the special proceeding must be presumed, and can be disproved only by affirmative record evidence to the contrary.

§ 2717 [2800]. *Right of [dower] life tenant to be considered in sale.*

Where [the widow of the decedent, or of a] *any party to the proceeding has an existing or inchoate right of dower, or where any party to the proceeding has a tenancy by curtesy, or an estate for life or for years in the real estate directed to be sold, the court must [consider and] determine whether the interests of all the parties will be better protected, or a more advantageous sale can be made of such real estate by including the sale of such right or interest [of dower]; [and, if it shall be determined by the court that a larger sum will be realized on such sale, applicable to the payment of debts and funeral expenses, by including in such sale such [the] right or interest of dower, the interest of the party entitled thereto shall pass thereby;]* and if the court shall so determine there may be included in the order a direction that such right or interest be sold; and the purchaser, his heirs and assigns, shall hold the property free and discharged from any claim by virtue of that right. The regulations and provisions of article two, title one of chapter fourteen of this act, prescribing the rules of practice in relation to the right of dower, *curtesy and estates for life, or for years* in actions for the partition of real estate, so far as the same may be applicable, shall govern and control the disposition of moneys realized on such sale which shall belong to the owner of said right of dower, *or tenant for life, or for years.*

§ 2718 [2801]. *Restitution [for] from assets subsequently discovered.*

Where a decree has been made for the application of the proceeds of real property [to the payment of the decedent's debts, or funeral expenses,] as prescribed in this title, and assets, which should have been applied thereto, are afterward discovered; or, for any other reason, money or other personal property of the decedent, which should have been applied thereto, afterward comes to the hands of the executor, administrator, legatee or next of kin, the heir, devisee, or other person aggrieved may maintain an action to procure reimbursement therefrom.

TITLE V

ACCOUNTING AND JUDICIAL SETTLEMENT; EFFECT AND CONTENTS OF DECREE ON JUDICIAL SETTLEMENT; COSTS, THEIR AMOUNT, ALLOWANCE AND PAYMENT; FEES OF APPRAISERS, REFEREES, JURORS AND WITNESSES; COMMISSIONS AND ALLOWANCES; APPEALS, HOW AND TO WHAT COURT TAKEN; UNDERTAKINGS AND STAY OF EXECUTION; PROBATE OF HEIRSHIP; DEFINITIONS AND APPLICATION OF OTHER SECTIONS.

- Article I.** Accounting by recording settlement or filing account; intermediate, compulsory and voluntary judicial settlement. Decree for payment and distribution and delivery of property.
- II.** Costs in special proceedings, when and how payable; security for costs. Compensation of special guardian, fees of appraisers, referees, jurors and witness. Commissions and compensation of executors, administrators, guardians and testamentary trustees.
- III.** Appeal, when, how and to what court taken, and power of appellate court. Undertaking to perfect appeal and stay execution. Probate of heirship — Definitions and application of other sections to this chapter.

ARTICLE FIRST

Accounting by recording settlement or filing account; intermediate, compulsory and voluntary judicial settlement; decree for payment and distribution and delivery of property.

§ 2719 [2502]. *Recording instruments settling estates in part or in whole.*

*There may be recorded in the surrogate's office any instrument settling an estate in whole or in part, executed by one or more executors, administrators, testamentary trustees, or guardians, and one or more legatees, devisees, distributees, creditors or wards who have attained full age. [also instruments acknowledging payment of moneys pursuant to the provisions of decrees for the judicial settlement of accounts of executors, administrators, testamentary trustees and guardians.]** Every such instrument to be recorded shall be acknowledged, or proved, and *duly* certified [in like manner as would be required in the case of a deed of real estate to be recorded in the same county]; and the record thereof, or a certified copy of such record, shall be presumptive evidence of the contents of such instrument and its due execution. [The person presenting any such instrument for record shall pay to the clerk of the surrogate's court a fee of ten cents for each folio. The expense of providing the book specified in this section is a county charge.]†

NOTE.— * Inserted in new section 2552 under "Decrees."

† Inserted in new section 2486. Old § 2498.

Part of § 2502. It would seem that this belongs under "Accounting."

§ 2720. Judicial settlement where recovery has been had in negligence action.

Where limited letters testamentary or of administration have been granted for the prosecution of a cause of action, and a judgment or compromise thereof has been obtained and the proceeds are ready to be paid over; and where such recovery is not a part of the estate of the deceased but goes by special provision of law to designated persons or classes of persons; such executor or administrator may at any time file a petition for the judicial settlement of his accounts relating to such fund, and upon the return of a citation or upon the waiver of all the parties interested, if of full age and competent, the surrogate may take and settle such account, and direct payment to the parties entitled according to their respective rights and interests; and upon filing receipts for such payments the party paying the money and such executor or administrator shall be discharged from all further liability as to such cause of action and such fund. Where such recovery has been had and the amount thereof paid to the executor or administrator, he may in like manner have a judicial settlement of his accounts relating to such fund, at any time, and a decree made discharging him from further liability concerning the same.

NOTE.—There is now no provision for an immediate judicial settlement in such cases, but since the fund forms no part of the estate it is the general practice to allow such a settlement at any time.

§ 2721. *Filing intermediate account voluntarily or by order.*

An executor, [or] administrator, *guardian or testamentary trustee* may at any time voluntarily file in the surrogate's office an intermediate account, and the vouchers in support of the same. *He may be required to file such account at any time, in the discretion of the surrogate, by an order made upon the petition of any person interested, or by direction of the surrogate. He may be required [and] to attend and be examined under oath touching his receipts and disbursements or touching any other matter relating to his administration of the estate, or fund, and in the case of an executor or administrator as to [or] any act done by him under color of his letters, or after decedent's death and before letters were issued, or touching any personal property owned or held by decedent at the time of his death.*

NOTE.—Giving a general power to order an intermediate account at any time will often serve a useful purpose, and omitting references to special instances will simplify the practice. Remainder of § 2725 to be repealed. Also includes portion of former § 2729, and § 2802 applying to trustees.

Section 2768 defines an intermediate account as being one not the subject of judicial settlement.

§ 2722. Proceedings where account is filed pursuant to order.

On the return of *the order*, where one is made [a citation issued] as prescribed in [either of] the foregoing section[s] of this article, if the [executor or administrator] *respondent* fails either to *file his account*, appear, or to show good cause to the contrary, or to present in a proper case, a petition as prescribed in [the next] section 2728, an order must be made, directing him to account within such a time, and in such a manner as the surrogate prescribes, and to attend, from time to time, before the surrogate, for that purpose. [The executor or administrator is bound by such an order, without service thereof. If he disobeys it the surrogate may issue a warrant of attachment against him, and his letters may be revoked, as where a warrant of attachment is issued to compel the return of an inventory.] If it appears that *the account can be then judicially settled* [appears that there is a surplus, distributable to creditors or persons interested, the surrogate may, at any time, issue] a supplemental citation *may be issued* directed to the persons who must be cited on [the] a petition [of an executor or administrator] for a judicial settlement of his account[, and requiring them to attend the accounting]. The pendency of a proceeding against [an executor or administrator] *the respondent* to compel him to account does not preclude him from presenting a petition as prescribed in [the next] section 2728. If such petition is presented at or before the return *day of the order* [or of a citation in and as prescribed in either of the foregoing sections of this title], the citation issued thereon need not be directed to petitioner in the special proceeding pending against him [the executor or administrator,] and the two proceedings must be consolidated. *When such account is filed in connection with a proceeding then pending any party may contest the account as to any matter affecting his interest, and the decree or other determination made shall go to the extent only of determining the question or questions necessary to be decided in order to grant or deny the relief asked for in the special proceeding in which the account was ordered to be filed. Where the accounting*

is made a judicial settlement by the issuing of a supplemental citation or the filing of a petition as above provided, the same proceedings shall be had as on a judicial settlement.

NOTE.—Part of § 2727. Last sentence put into general section. New § 2535.

This section is now made to apply where the account is filed voluntarily or by order when no decree is to be made; also when an account is filed to disclose the condition of the estate in order to decide a question arising in another proceeding (§§ 1381, 1826).

§ 2723. Voluntary intermediate judicial settlement of the accounts of an executor, administrator, guardian or testamentary trustee.

An executor, administrator, guardian or testamentary trustee may, at any time after one year has expired since letters were issued to him, or he was appointed and qualified, and not oftener than annually thereafter, file in the surrogate's court having jurisdiction an intermediate account and a petition for its judicial settlement.

If the surrogate entertain such application, a citation shall issue to all persons who would be required to be cited upon a voluntary final judicial settlement of such account, and the same proceedings shall be had and with like effect, so far as the settlement of such accounts is concerned, as though such proceeding were a final judicial settlement.

NOTE.—It has been a great hardship that there was no provision for an intermediate judicial settlement. The guardian ought not to be compelled to wait from 10 to 20 years before he can get credit for disbursements or have his commissions or income allowed. See new § 2753.

[§ 2802. Intermediate accounting; when voluntary.

Any trustee created by any last will and testament, or appointed by any competent authority to execute any trust created by such last will and testament, may at any time file an intermediate account, and may also annually render and finally judicially settle his accounts before the surrogate of the county having jurisdiction of the estate or trust, in the manner provided by law for the final judicial settlement of the accounts of executors and administrators, and may for that purpose obtain and serve in the same manner the necessary citations requiring all persons interested to attend such final settlement; and the decree of the surrogate on such final settlement may be appealed from in the manner provided for an appeal from a decree of a surrogate's court on the final settlement of the accounts of an executor or administrator, and the like proceedings shall be had on such appeal; in all such annual accountings of such trustees, the surrogate before whom such accounting may be had shall allow to the trustee or trustees the same compensation for his or their services, by way of commission, as are allowed by law to executors and administrators, besides their just and reasonable expenses therein; and also the additional allowance provided for in section twenty-five hundred and sixty-two of this act; the decree of the surrogate on such final annual settlement of an account provided for in this section, or the final determination, decree or judgment of the appellate tribunal in case of appeal, shall have the same force and effect as the decree or judgment of any other court of competent jurisdiction on the final settlement of such accounts, and of the matters relating to such trust which shall have been embraced in such accounts, or litigated or determined on such settlement.】

NOTE.— Repeal. Re-written into other sections. See § 2723.

§ 2724. Compulsory intermediate judicial settlement of the accounts of a guardian or testamentary trustee.

The surrogate of his own motion, or upon the petition of any person interested in the fund held by a guardian or testamentary trustee, may by order direct such guardian or testamentary trustee to make and settle an intermediate account of his proceedings. The proceedings upon the return of the order shall be the same as though the respondent had filed his petition for a voluntary intermediate judicial settlement as provided in section 2723 of this title, and the decree entered shall have the same force and effect as if made in such proceeding.

§ 2725 [2606]. Accounting by executor, et cetera, of deceased executors, et cetera.

Where an executor, administrator, guardian or testamentary trustee dies, the surrogate's court has the same jurisdiction, upon the petition of *any person who would be required to be cited upon a voluntary judicial settlement of his accounts* [his successor, or of a surviving executor, administrator, or guardian, or of a creditor, or person interested in the estate, or of a guardian's ward, or the legal representative of a deceased ward, or a surety upon the official bond of the decedent, or the legal representative of a deceased surety,] to compel the executor or administrator of the decedent to account, which it would have against the decedent if his letters [have] *had been revoked, or he had been removed,* by a surrogate's decree. An[d an] executor or administrator of a deceased executor, administrator, guardian, or testamentary trustee may voluntarily account for the acts and doings of the decedent, and for the trust property which had come into his possession or into the possession of the decedent. [And o]n the death [heretofore or hereafter,] of any executor, administrator, guardian or testamentary trustee while an accounting by or against him, as such, [was or] is pending before a surrogate's court, such court may *continue said proceeding where* [revive said proceeding against] his executor, administrator or successor *has voluntarily made himself a party thereto or has been brought in by a citation to show cause why he should not be made a party,* and proceed with such accounting and determine all questions and grant any relief that the surrogate would have power to determine or grant in case such decedent had not died or in a case where the executor or administrator of said last mentioned decedent [, acting at the time of such revival] had voluntarily petitioned for an accounting as provided for in this section. On a petition filed either by or against an executor or administrator of a deceased executor, administrator, guardian or testamentary trustee, [or on a revival and continuation of an accounting pending by or against such decedent at the time of his death,] the successor of such decedent, *his executor or administrator,* and all persons who would be necessary parties to a proceeding commenced by such decedent for a judicial settlement of his accounts shall be *brought in* [cited and required to attend such settlement]. *If upon such accounting, the surrogate finds that there can be a distribution, in whole or in part, to the parties*

entitled thereto, he may make a decree accordingly, and he may also therein direct payment and delivery, by the accounting party, upon such terms and security as may be proper, of the balance, if any, of said estate or fund. For the purpose of such payment and distribution the accounting party shall have all the powers and duties of the deceased representative, trustee or guardian. [The surrogate's court may at any time on its own motion or on the motion of any party to any one of two or more of such proceedings, consolidate said proceedings but without prejudice to the power of the court to make any subsequent order in either of them.]* [With respect to the liability of the sureties in and for the purpose of maintaining an action upon the decedent's official bond a decree against his executor or administrator rendered upon such an accounting, has the same effect as if an execution issued upon a surrogate's decree against the property of decedent had been returned unsatisfied during the decedent's lifetime.†] [So far as concerns the executor or administrator of decedent, such a decree is not within the provisions of section twenty-five hundred and fifty-two of this act.‡] [The surrogate's court has also jurisdiction to compel the executor or administrator, or successor of any decedent, at any time to deliver over any of the trust property which has come to his possession or is under his control, and if the same is delivered over after a decree, the court must allow such credit upon the decree as justice requires.‡§]

NOTE.—The parts omitted have been added to other sections or put in new sections. It does not seem that they belong in this section.

* Inserted in new § 2535.

† Inserted in § 2608, Bonds. New § 2584.

‡ Provided for in § 2552. New § 2549.

§ Inserted in new section 2734.

If a new representative has been appointed, why should all legatees or next of kin be cited? This makes a double citation of all parties, once on the accounting of the representative of the deceased representative, and again upon the accounting of the successor. See bottom prior page. To meet this difficulty the revisers suggest in the new matter at the bottom of the prior page, that the surrogate be given, in a proper case, power to order distribution without the intervention of a successor.

§ 2726. When surrogate's court may require judicial settlement of account.

In either of the following cases, the surrogate's court may, from time to time, compel a judicial settlement of the account of an executor, [or] administrator, guardian or trustee:

1. *In the case of an executor or administrator,*

[1.] *a. Where 15 days have elapsed after the time in which to present claims has expired, or one year has expired since letters were issued to him.*

[2.] *b. Where letters issued to him have been revoked, or, for any other reason, his powers have ceased.*

c. Where the administrator is a temporary administrator.

[3. Where a decree for the disposition of real property, or of an interest in real property, has been made, as prescribed in title fifth of this chapter, and the property, or a part thereof, has been disposed of by him pursuant to the decree.]

[4.] *d. Where he has sold, or otherwise disposed of, any of the decedent's real property, or the rents, profits or proceeds thereof, pursuant to a power contained in the decedent's will, or an order of the surrogate's court, and 15 days have elapsed after the time in which to present claims has expired, or [where] one year has elapsed since letters were issued to him. [The surrogate's court may compel a judicial settlement of the account of a temporary administrator at any time. It may also compel a judicial settlement of the account of a freeholder, appointed to dispose of a decedent's real property, or interest in real property, as prescribed in title fifth of this chapter, in like manner as where the same has been disposed of by the executor or administrator.]*

2. *In the case of a guardian,*

a. Where the ward has attained the age of twenty-one years, or has died.

b. Where the guardian is a guardian in socage, or the guardian of the infant's person only.

c. Where letters issued to him have been revoked, or his powers have ceased.

3. *In the case of a trustee,*

[1. Where one year has expired, since the will was admitted to probate.]

[2.] *a. Where the trustee has been removed, or for any other reason his powers have ceased.*

[3.] b. Where the trusts, or one or more distinct and separate trusts, created by the terms of the will, have been executed, or are ready to be executed; so that the persons beneficially interested are, by the terms of the will, or by operation of law, entitled to receive any money or other personal property from the trustee.

NOTE.—Subd. 3 eliminated and added to subd. d. Concerning temporary administrator inserted as c. Last sentence of subd. 4 struck out as now inconsistent. Notice that settlement may be had at expiration of notice to creditors.

This section now includes guardians and trustees and permits the repeal of §§ 2847 and 2448, 2807.

Guardian in socage, see new § 2510, subd. 8.

[§ 2837. Ward or new general guardian may require accounting.]

Notwithstanding the discharge of a general guardian, as prescribed in the last section, his successor or the ward may compel a judicial settlement of his account, as prescribed in article second of this title, in the same manner and with like effect, as if the decree discharging him had not been made. With respect to all matters connected with his trust, his sureties continue to be liable, until his account is judicially settled accordingly.】

NOTE.—Repeal. Included in new § 2726.

[§ 2847. When judicial settlement of guardian's account compelled.]

A written petition, duly verified, praying for the judicial settlement of the account of a general guardian of an infant's property, and that he may be cited to attend the settlement thereof, may be presented to the surrogate's court, in either of the following cases:

1. By the ward, after he has attained his majority.
2. By the executor or administrator of a ward, who has died.
3. By the guardian's successor, including a guardian appointed after the reversal of a decree, appointing the person so required to account.
4. By a surety on the official bond of a guardian whose letters have been revoked; or by the legal representative of such surety. Citation under this subdivision must be directed to both the guardian and the ward.】

Incorporated in new § 2726.

[§ 2848. Id.; as to guardian of person.]

A petition, for the judicial settlement of the account of a general guardian of an infant's person, may be presented, as prescribed in the last section, or by the general guardian of the infant's property; but upon the presentation thereof, proof must be made, to the surrogate's satisfaction, that the guardian so required to account has received money or property of the ward, for which he has not accounted; or which he has not paid or delivered to the general guardian of the infant's property; and a guardian of the estate only of a minor shall be for the purposes of this chapter, deemed a general guardian.】

NOTE.—The last clause is not necessary as this is defined under new section "Decree." New § 2649.

Incorporated in new § 2726.

[§ 2806. Id.; other persons interested to be cited.]

Where it appears, upon the presentation of a petition as prescribed in the last section but one, that a decree, made pursuant to the prayer thereof, might affect the rights of other persons, with respect to the estate or fund held by the testamentary trustee, the citation must also be directed to those persons. Where that fact appears, upon the return of the citation, or upon the hearing, and it also appears presumptively that the petitioner is entitled to a decree, all the persons, whose rights may be so affected, must be brought in by a supplemental citation, before a decree is made.】

NOTE.—Part of this section inserted in other sections and the remainder considered covered by general power. Repeal.

[§ 2807. When surrogate may compel judicial settlement.]

In either of the following cases, the surrogate's court may, from time to time, compel a judicial settlement of the account of a testamentary trustee:

1. Where one year has expired, since the will was admitted to probate.
2. Where the trustee has been removed, or for any other reason his powers have ceased.
3. Where the trusts, or one or more distinct and separate trusts, created by the terms of the will, have been executed, or are ready to be executed; so that the persons beneficially interested are, by the terms of the will, or by operation of law, entitled to receive any money or other personal property from the trustee.】

Inserted in new §§ 2724, 2726.

§ 2727. Compulsory judicial settlement; who may petition.

A petition praying for the judicial settlement of the accounts of a person described in the last section, and that such person may be cited to show cause why he should not render and settle such account may be presented in a case prescribed in the last section as follows:

1. *Against an executor or administrator,*
 - a. *By a creditor or a person interested in the estate or fund,*
 - b. *By or on behalf of a child born after the making of the will, when interested in the estate.*
2. *Against a guardian,*
 - a. *By the ward after he has become twenty-one years of age,*
 - b. *By the executor or administrator of a ward who has died,*
 - c. *By the ward or a duly appointed guardian where a person has been acting as a guardian in socage.*
3. *Against a testamentary trustee,*
 - a. *By any person beneficially interested in the execution of any of the trusts, or by any person on behalf of an infant so interested, unless his account has been judicially settled within one year preceding the application.*

In any case,

- a. *By a surety on the official bond of the person required to account, or the legal representative of such a surety,*
- b. *By the successor, or by the remaining executor, administrator, guardian or trustee, where a representative, guardian or testamentary trustee has been removed or his letters revoked.*
- c. *By the attorney-general of the state where any of the property or fund may belong to the state of New York, by reason of the death of any testator, intestate, or person interested without leaving known heirs-at-law or next of kin, as the case may be, or such heirs-at-law or next of kin are unknown.*

NOTE.—Section 2727 re-written and made to include guardians and trustees, thus eliminating §§ 2847, 2808.

[§ 2856. When surrogate may compel judicial settlement of account.]

The surrogate's court, having jurisdiction to require security may compel a judicial settlement of the account of the guardian appointed by will or by deed, in any case where it may compel a judicial settlement of the account of a general guardian; and the proceedings to procure such settlement are the same as if the guardian so appointed by will or by deed had been a general guardian. A guardian appointed by will or by deed may present to the surrogate's court a written petition, duly verified, praying for a judicial settlement of his account, and a discharge from his duties and liabilities, in any case where a petition for a judicial settlement of his account may be presented by any other person as prescribed in this article. The petition must pray that the person who might have so presented a petition may be cited to attend the settlement. Upon the presentation of such petition the surrogate must issue a citation accordingly. Sections twenty-seven hundred and thirty-three to twenty-seven hundred and thirty-seven, both inclusive, and sections twenty-seven hundred and forty-one and twenty-seven hundred and forty-four of this act apply to a guardian accounting as prescribed in this article, and regulate the proceedings upon such an accounting. A guardian designated in this title is entitled to the same compensation as a general guardian.]

NOTE.— Repeal. Provided for in new §§ 2726, 2727, 2728.

[§ 2803. Id.; when compulsory.]

Upon the petition of a person interested, absolutely or contingently, in the estate or fund in the hands of a testamentary trustee, or in the application thereof, or of the income or other proceeds thereof, the surrogate may, in his discretion, make, at any time, an order requiring a testamentary trustee to render an intermediate account.]

NOTE.— Repeal. Covered by new §§ 2726, 2727.

[§ 2808. Who may apply therefor.

A petition, praying for a judicial settlement, as prescribed in the last section, and that the testamentary trustee may be cited to show cause, why he should not render and settle his account, may be presented, by any person beneficially interested in the execution of any of the trusts; or by any person in behalf of an infant so beneficially interested; or by a surety in the bond of the testamentary trustee, given as prescribed in this title, or by the legal representative of such a surety. Upon the presentation of the petition, the surrogate must issue a citation accordingly, unless the account of the testamentary trustee has been judicially settled. within a year before the petition is presented; in which case, the surrogate may, in his discretion, entertain, or decline to entertain, the petition.]

NOTE.— Repeal. Covered by new §§ 2724, 2726, 2727.

§ 2728 [2727]. Compulsory judicial settlement; citation; order to account and proceedings thereon.

[A petition praying for the judicial settlement of an account, and that the executor and administrator be cited to show cause why he should not render and settle his account, may be presented, in a case prescribed in the last section, by a creditor or a person interested in the estate or fund, including a child born after the making of a will; or by any person, in behalf of an infant so interested; or by a surety in the official bond of the person required to account, or the legal representative of such a surety, or by the attorney-general, in any case where the decedent died intestate as to any of his estate, leaving no known heirs or next of kin;] On the presentation of a petition, as prescribed in the last section, a citation must be issued accordingly, [; except that in a case specified in subdivision first of the last section, if the petition is presented within eighteen months after letters were issued to the executor or administrator, the surrogate may entertain or decline to entertain it, in his discretion. On] and on the return of [a] the citation [issued as prescribed in either of the foregoing sections of this article.] if the *person cited* [executor or administrator] fails either to appear, *or to file his account*, or to show good cause to the contrary, or to present in a proper case, a petition as prescribed in the next section, an order must be made, directing him to account within such a time, and in such a manner as the surrogate prescribes, and to attend, from time to time, before the surrogate, for that purpose. [The executor or administrator] *He* is bound by such an order, without service thereof. [If he disobeys it the surrogate may issue a warrant of attachment against him, and his letters may be revoked, as where a warrant of attachment is issued to compel the return of an inventory.] If it appears that there is a surplus, distributable to creditors or persons interested, the surrogate may, at any time, issue a supplemental citation, directed to the persons who must be cited, on the petition [of an executor or administrator] for a judicial settlement of his account[.], [and requiring them to attend the accounting.] The pendency of a proceeding against an executor, [or] administrator, *guardian or trustee* to compel him to account does not preclude him from presenting a petition as prescribed in the next section. If such petition is presented at or before the return of a citation in and as prescribed in either of the foregoing sections of this

title, the citation issued thereon need not be directed to petitioner in the special proceeding pending [against the executor or administrator], and the two proceedings must be consolidated. [The surrogate may, in his discretion, and on such terms as may be just, direct the consolidation of any two or more of such proceedings pending before him, and such consolidation does not affect any power of the surrogate which might be exercised in either proceeding.*]

* Inserted in new § 2535.

The first part of this section has been put into new § 2727 and the remainder changed so as to include an accounting by a guardian or trustee.

§ 2729. *Voluntary judicial settlement.*

In either of the following cases an administrator, executor, guardian or testamentary trustee may present to the surrogate's court his account and a petition praying that his account may be judicially settled and that all necessary and proper parties may be cited to show cause why such settlement should not be had:

1. *By an executor or administrator,*
 - a. *Where the time for presentation of claims as fixed by a notice duly published has expired; or one year has expired since letters were issued to him or his predecessor in office.*
 - b. *Where letters issued to the petitioner have been revoked.*
2. *By a guardian,*
 - a. *Where a petition for a compulsory judicial settlement of his accounts may be presented by any other person.*
 - b. *Where he has properly used and expended all of the estate of the infant, and the circumstances are such that, in the discretion of the surrogate, it is proper that such guardian should be discharged.*
3. *By a testamentary trustee.*
 - a. *Where one or more distinct and separate trusts created by the will, have been, or are ready to be, fully executed.*

NOTE.—Part of § 2728 re-written.

NOTE.—Combines §§ 2728, 2849, 2810.

[§ 2810. Judicial settlement on petition of trustee.]

When one year has expired since the probate of the will, or when the trusts, or one or more distinct and separate trusts, created by the will, have been, or are ready to be, fully executed, a testamentary trustee may present to the surrogate's court a petition, duly verified, setting forth the facts, and praying that his account may be judicially settled; and that all the persons who are entitled, absolutely or contingently, by the terms of the will, or by operation of law, to share in the fund, or in the proceeds of property held by the petitioner, as a part of his trust, may be cited to attend the settlement. Thereupon the surrogate must issue a citation accordingly. Sections twenty-seven hundred and twenty-nine, twenty-seven hundred and thirty, and twenty-seven hundred and thirty-one of this act apply to the proceedings upon the return of a citation issued as prescribed in this section, and to the testamentary trustee whose account is to be settled. Any person, although not named in the citation, who is beneficially interested in the estate or fund which came to the petitioner's hands, or in the proceeds thereof, or in the application of that estate or fund, or of the proceeds thereof, is entitled to appear upon the hearing, and thus make himself a party to the special proceeding.]

NOTE.—Included in new §§ 2729, 2730.

[§ 2849. When guardian may compel judicial settlement.]

A guardian may present to the surrogate's court a written petition duly verified, praying for a judicial settlement of his account and a discharge from his duties and liabilities, in any case where a petition for a judicial settlement of his account may be presented by any other person as prescribed in either of the last two sections. The petition must pray that the person who might have so presented a petition, and also the sureties in his official bond as such guardian or the legal representatives of such surety may be cited to attend the settlement.]

NOTE.—Incorporated in new §§ 2729, 2730.

§ 2730. Voluntary judicial settlement; citation.

Upon a voluntary judicial settlement of the account of an executor, administrator, guardian or testamentary trustee there must be cited:

1. *All creditors or persons claiming to be creditors of the decedent, except such as by vouchers filed with the account appear to have been paid.*

2. *The sureties on his official bond, if any.*

3. *All co-executors, administrators, guardians or trustees who do not join in the petition.*

4. *The successor, if a successor has been appointed, in a case where the petitioner's letters have been revoked, or he has been removed, and if no successor has been appointed, all the persons interested who are required to be cited by this section.*

5. *The attorney-general in all cases where the decedent, ward or beneficiary died intestate as to any part of the estate or fund leaving no known heir-at-law or next of kin.*

6. *The widow or husband, if any, and all the heirs-at-law where the decedent, ward or beneficiary died intestate as to any real property, and all his next of kin where he died intestate as to any personal property.*

7. *All devisees, all trustees of any trust created by the will, and all legatees, except such as by voucher and release duly proved, or acknowledged, and filed, appear to have been fully paid.*

8. *In the case of a guardian, there shall also be cited all persons who might have presented a petition for a compulsory settlement.*

9. *In the case of a trustee there shall also be cited all persons who are entitled, absolutely or contingently, by the terms of the will or by operation of law, to share in the fund, or in the proceeds of property held by the petitioner as a part of his trust.*

Where any person required to be cited has died, his executor or administrator shall be cited, and if no legal representative has been appointed, the husband or widow and all the heirs-at-law or next of kin, or both, of such deceased person, who are interested.

[*In either of the following cases an executor or administrator may present to the surrogate's court his account and a written petition duly verified, praying that his account may be judicially settled; and that the sureties in his official bond or the legal representatives of such surety and all creditors or persons claiming to be creditors of the decedent, except such, as by vouchers annexed to the account filed, appear to have been paid, and the de-*

cedent's husband or wife, next of kin and legatees, if any; or, if either of those persons had died, his executor or administrator, if any, and the attorney-general in a case where decedent died intestate as to any part of his estate, leaving no known heirs or next of kin, shall be cited to attend the settlement; but where the decedent leaves a will which has been duly admitted to probate, it shall not be necessary to cite the decedent's next of kin, unless they are also legatees.]

[1. Where one year has elapsed since letters were issued to such executor or administrator.]

[2. Where notice requiring all persons having claims against the deceased to exhibit the same with the vouchers thereof to such executor or administrator has been duly published according to law. If one of two or more co-executors or co-administrators presents his account and a petition for a judicial settlement of his separate account, it must pray that his co-executors or co-administrators may also be cited. Upon the presentation of accounts and a petition, as prescribed in this section, the surrogate must issue a citation accordingly.]

NOTE.—Part of § 2728 rewritten. This section has always been obscure and illogical, and the revisers think they have made it plain as to the different persons to be cited in testacy and intestacy. Subd. 7 puts legatees who have been paid in the same class with creditors who have been paid, and thereby saves much expense, as heretofore they had to be cited unless waivers were filed.

NOTE.—Combines §§ 2728, 2810, 2811, 2849, 2850.

[§ 2850: Citation; proceedings thereupon.

Upon the presentation of a petition, as prescribed in either of the last three sections, the surrogate must issue a citation accordingly. Section two thousand seven hundred and twenty-seven, sections two thousand seven hundred and thirty-three to two thousand seven hundred and thirty-seven, both inclusive, and sections two thousand seven hundred and forty-one and two thousand seven hundred and forty-four of this act, apply to a guardian accounting as prescribed in this article, and regulate the proceedings upon such an accounting. The accounting party must annex to every account produced and filed by him an affidavit, in the form prescribed in this article for the affidavit, to be annexed by him to his annual inventory and account. A guardian designated in this title is entitled to the same compensation as an executor or administrator.]

NOTE.—Incorporated in new § 2730.

§ 2731. *Proceedings on return of citation.*

On the return of a citation, issued as prescribed in **[this]** *the last section*, the surrogate must take the account, and hear the allegations and proofs of the parties, respecting the same *and make such order or decree as justice requires. The executor, administrator, guardian or trustee may be examined under oath by any party to the proceeding as to any matter relating to his administration of the estate or fund. If any party interested shall demand in writing that a voucher be produced and filed for any payment alleged by the account to have been made, the accounting party shall produce and file such voucher or make satisfactory proof of such payment.* **[Any party may contest the account, with respect to a matter affecting his interest in the settlement and distribution of the estate. And any party may contest an intermediate account rendered under section twenty-seven hundred and twenty-five of this act in case the same shall not be consolidated pursuant to section twenty-seven hundred and twenty-seven of this act. A creditor, or a person interested in the estate, although not cited, is entitled to appear on the hearing, and thus make himself a party to the proceeding. When letters issued to an executor or administrator have been revoked, he may present to the surrogate's court a written petition, duly verified, praying that his account be judicially settled, and that his successor, if a successor has been appointed, and the other persons specified in this section be cited to attend the settlement.]**

NOTE.—Section 2728 rewritten and parts distributed to other sections, leaving only proceeding on return of citation. See new §§ 2511, 2535.

Right to contest omitted as being a right which need not be continually mentioned. Petition after revocation of letters provided for in new § 2729.

NOTE.—The provision in section 2729 making it mandatory to file a voucher is eliminated, as under Matter of Wicke, 74 A. D. 221, it has been held that failure to file a voucher goes to the jurisdiction to make a decree. By § 2730 citation must issue to all creditors from whom vouchers are not filed. The verified account ought to be sufficient proof of payment; unless objection is made. As accounts do not often contain the items of bills paid, it is now provided in this section, that if a voucher is not filed, it must be produced on demand, or satisfactory proof made. It would seem that this is all that ought to be necessary.

Repeal former § 2729, as it has been distributed to various sections.

§ 2732. Affidavit to account.

To each account filed [with] *in the surrogate's court*, as prescribed in this article, must be appended the affidavit of the accounting party, to the effect that the account contains, according to the best of his knowledge and belief, a full and true statement of all his receipts and disbursements on account of the estate *or fund* [of the decedent], and of all money and other property belonging to the estate *or fund*, which have come to his hands, or been received by any other person, by his order or authority, for his use, and that he does not know of any error or omission in the account, to the prejudice of any creditor of, or person interested in, the estate [of the decedent] *or fund*.

NOTE.—Part of former § 2729 re-written to include guardians' and trustees' accounts.

§ 2733. Accounting for profit and loss.

No profit shall be made by an executor, [or] administrator, *guardian or testamentary trustee* by the increase, nor shall he sustain any loss by the decrease *or loss*, without his fault, of any part of the estate *or fund*; but he shall account for such increase, and be allowed for such decrease *or loss* on the settlement of his accounts. [On the judicial settlement of the account of an executor or administrator, the surrogate may allow the accounting party for property of the decedent perished or lost without the fault of the accounting party.]

NOTE.—From § 2729. By adding "loss" to the first sentence, we omit the last sentence.

§ 2734. *Property of an estate or trust to be delivered upon order of the court.*

The surrogate's court has jurisdiction to compel the executor, administrator, guardian or trustee, or successor of any deceased executor, administrator, trustee or guardian at any time to deliver over any property of the estate or trust which has come to his possession or is under his control, and if the same is delivered over after a decree, the court must allow such credit upon the decree as justice requires.

The said court has also jurisdiction when an executor, administrator, trustee or guardian has died, absconded, been removed, or become insane to direct the person so removed, or any person or corporation having possession or control of any property belonging to such estate or fund, to deliver the same to the court or to a successor duly appointed; or as directed by a decree made pursuant to section 2725 of this chapter.

NOTE.— Last sentence partly from § 2605.

First part from former § 2606.

§ 2735 [2743.]. Decree for payment and distribution.

Where an account is judicially settled, as prescribed in this article, and any part of the estate or *fund* remains and is ready to be distributed [to the creditors, legatees, next of kin, husband or wife of the decedent, or their assigns], the decree must direct the payment and distribution thereof to the persons so entitled, according to their respective rights. *It may also award to a surviving husband, wife, or child, the same relief as to set off of exempt property which may be awarded in his or her favor, on a petition presented as prescribed in section 2671 of this chapter.* [In case of whole or partial intestacy the decree must direct immediate payment and distribution to creditors, next of kin, husband or wife of the decedent, or their assigns, where the executor or administrator has petitioned voluntarily for judicial settlement of his account as, and in the case provided in subdivision two of section twenty-seven hundred and twenty-eight of this article; but such decree shall not direct the payment of any legacy prior to the expiration of one year after the granting of letters upon such estate, unless the will otherwise directs. If any person, who is a necessary party for that purpose, has not been cited or has not appeared, a supplemental citation must be issued, as prescribed in section twenty-seven hundred and twenty-seven of this act.]* [Where the validity of a debt, claim or distributive share is admitted or has been established upon the accounting or other proceeding in the surrogate's court or other court of competent jurisdiction, the decree must determine to whom it is payable, the sum to be paid by reason thereof and all other questions concerning the same.] [With respect to the matters enumerated in this section the decree is conclusive as a judgment upon each party to the special proceeding who was duly cited or appeared and upon every person deriving title from such party.]†

NOTE.—* This provision apparently applied where an executor accounted for intestate's property. This is now intended to be covered by first part of this section and new § 2730.

† Covered by new § 2742.

New matter transferred from § 2724.

§ 2736 [2744]. Id.; when specific property may be delivered.

In either of the following cases, the decree may direct the delivery of an unsold chattel, or the assignment of an uncollected demand, or any other personal property, to a party or parties entitled to payment or distribution, in lieu of the money value of the property:

1. Where all the parties interested [, who have appeared,] manifest their consent thereto by a writing filed in the surrogate's office.

2. *Where any legatee or distributee files a consent to accept as payment in whole or in part any specified personal property at a value to be ascertained by appraisement.*

3. [2.] Where it appears that a sale thereof, for the purpose of payment or distribution, would cause a loss to *any infant or incompetent legatee or distributee, and the value thereof has been fixed by appraisement.* [the parties entitled thereto.]

The value must be ascertained, if the consent does not fix it, by an appraisement under oath, made by one or more persons appointed by the surrogate for the purpose.

NOTE.—This section now enables a legatee or distributee to accept good securities in place of cash, and thus saves many good investments from being sacrificed.

By § 2753 commissions are allowed on such property.

§ 2737 [2745]. Id.; when money may be retained.

Where an admitted debt of the decedent is not yet due, and the creditor will not accept present payment, with a rebate of interest; *or when a debt not yet due has been disputed or rejected*; or where an action is pending between the executor or administrator, and a person claiming to be a creditor of the decedent; *or where on the judicial settlement of the accounts of a testamentary trustee a controversy respecting the right of a party to share in the fund or other personal property held by the trustee has not been determined*; the decree must direct that a sum, sufficient to satisfy the claim, or the proportion to which it is entitled, together with the probable amount of the interest and costs, *or that any personal property the right to which is in controversy* be retained in the hands of the accounting party; or be deposited in a safe bank, or trust company, subject to the *order of the surrogate's court* [surrogate's order]; or be paid into the surrogate's court, for the purpose of being applied to the payment of the claim, *or the satisfaction of any judgment* when it is due, recovered, or settled; and that so much thereof, as is not needed for that purpose, be afterwards distributed according to law.

NOTE.—New matter inserted to cover case in 205 N. Y. 219.

Former § 2812 incorporated.

[§ 2812. Surrogate to determine controversies; proportion may be retained.

Upon a judicial settlement of the account of a testamentary trustee, a controversy which arises, respecting the right of a party to share in the money or other personal property to be paid, distributed, or delivered over, must be determined in the same manner as other issues are determined. If such a controversy remains undetermined, after the determination of all other questions upon which the distribution of the fund, or the delivery of the personal property depends, the decree must direct that a sum, sufficient to satisfy the claim in controversy, or the proportion to which it is entitled, together with the probable amount of the interest and costs, and, if the case so requires, that the personal property in controversy, be retained in the hands of the accounting party; or that the money be deposited in a safe bank or trust company, subject to the surrogate's order, for the purpose of being applied to the payment of the claim, when it is due, recovered, or settled; and that so much thereof, as is not needed for that purpose, be afterwards distributed according to law.]

NOTE.—Incorporated in new § 2737 (former § 2745), which had similar provisions.

§ 2738 [2733]. Adjustment of advancements.

Where there is a surplus of personal property to be distributed, and the advancement as provided in section [ninety-nine] 99 of the Decedent Estate Law, consisted of personal property, or where a deficiency in the adjustment of an advancement of real property is chargeable on personal property, the decree for distribution, in the surrogate's court, must adjust all the advancements which have not been previously adjusted by the judgment of a court of competent jurisdiction. For that purpose, if any person to be affected by the decree, is not a party to the proceeding, the surrogate must cause him to be brought in by a supplemental citation.

§ 2739 [2746]. *Id.*; share of infant.

When a legacy or distributive share is payable to an infant, the decree shall direct that it be paid to his guardian, upon his filing sufficient security, unless the [may, in the discretion of the surrogate's court, direct it, or so much of it as may be necessary, to be paid to his general guardian, to be applied to his support and education; or when it] legacy does not exceed [two hundred and] fifty dollars, or a distributive share does not exceed one hundred and fifty dollars, in which cases the decree may order it to be paid to his father, or to his mother, or to some competent person with whom the infant resides, or who has some interest in his welfare, for the use and benefit of such infant. [Said court may in its discretion, by its decree, direct any legacy or distributive share, or part of a legacy or distributive share, not paid or applied as aforesaid, which is payable to an infant, to be paid to the general guardian of such infant, upon his executing and depositing with the surrogate in his office, a bond running to such infant, with two or more sufficient sureties, duly acknowledged and approved by the surrogate, in double the amount of such legacy or distributive share, conditioned that such general guardian shall faithfully apply such legacy or distributive share, and render a true and just account of the application thereof, in all respects, to any court having cognizance thereof, when thereunto required, the sureties in which bond shall justify as required in this act, unless the surrogate shall determine that the general bond given by the guardian is ample and of sufficient amount to cover such legacy or distributive share.] [The said court may, in its discretion, from time to time, authorize or direct such general guardian to expend such part of such legacy or distributive share, in the support, maintenance and education of such infant as it deems necessary. On such infant's coming other moneys that may have been paid to or received by such general guardian shall pay or deliver to him, under the direction of the surrogate's court, the securities so taken, and the interest or other moneys that may have been paid to or received by such general guardian, after deducting therefrom such amounts as have been paid or expended in pursuance of the orders and decrees of said court, so made as aforesaid and the legal commissions of such guardian; and the said general guardian shall be liable to account in and under the direction of the surrogate's court, to his ward for the same; in case of the death of said infant, before coming of

age, the said securities and moneys, after making the deductions aforesaid, shall go to his executors or administrators, to be applied and distributed according to law, and the general guardian shall in like manner be liable to account to such administrator or executor.]* If there be no [general] guardian, *the decree shall provide that the legacy or distributive share not disposed of in the manner aforesaid, shall be paid into or deposited with the surrogate's court.* [Or if the surrogate's court do not order or decree the payment or disposition of the legacy or distributive share in some of the ways above described, then the legacy or distributive share, or part of the same not disposed of as aforesaid, whether the same consists of money or securities, shall, by the order or decree of the surrogate's court, be paid and delivered to and deposited in said court, by paying and delivering the same to and depositing it with the county treasurer of the county, to be held, managed, invested, collected, reinvested and disposed of by him, as prescribed and required by section twenty-five hundred and thirty-seven of this act.] [The regulations contained in the general rules of practice, as specified in subdivision eight of section four of the state finance law, and the provisions of title three of chapter eight of this act apply to money, legacies and distributive shares paid to and securities deposited with the county treasurer, as prescribed in this section; except that the surrogate's court exercises with respect thereto, or with respect to a security in which any of the money has been invested, or upon which it has been loaned, the power and authority conferred upon the supreme court by section seven hundred and forty-seven of this act.]*†

NOTE.—* The omitted portion is put under guardianship, new § 2664.

† Already in general section, new § 2699.

Difference between legacy and distributive share is made because a legacy is a gift which the donor, no doubt, wants the infant, and not the parents, to have.

In the second line "guardian" now applies to all guardians. It has been held that this section has not included testamentary guardians. *Matter of Kligenstine*, 156 A. D. 749.

§ 2740 [2747]. Legacy, etc., to unknown person to be paid into state treasury.

Where the person entitled to a legacy or distributive share is unknown, the decree must direct the executor, [or] administrator, *guardian or testamentary trustee* to pay the amount thereof into the treasury of the State, for the benefit of the person or persons who may thereafter appear to be entitled thereto. The surrogate's court, or the supreme court, upon the petition of a person claiming to be so entitled, and upon at least fourteen days' notice to the attorney-general, accompanied with a copy of the petition, may by a reference, or by directing the trial of an issue by a jury, or otherwise, ascertain the rights of the persons interested, and grant an order directing the payment of any money, which appears to be due to the claimant, but without interest, and deducting all expenses incurred by the State with respect *thereto* [to the decedent's estate]. The comptroller, upon the production of a certified copy of the order, must draw his warrant upon the treasury, for the amount therein directed to be paid; which must be paid by the State treasurer, to the person entitled thereto.

§ 2741 [2748]. When legacy, etc., to be paid to county treasurer.

Where it appears that the whereabouts of any legatee or distributee is unknown, the decree must [also] direct the executor [or], administrator or testamentary trustee to pay to the county treasurer a legacy or distributive share, which is not paid to the person entitled thereto, at the expiration of [two years] six months from the time when the decree is made, or when the legacy or distributive share is payable by the terms of the decree[.]; or where, at the expiration of six months after the making of the decree, it is shown to the court that payment of a legacy or distributive share can not be made to the person entitled thereto, an order may be made directing the payment of the same to such treasurer. The money, so paid to the county treasurer, can be paid out by him only by the special direction of the surrogate; or pursuant to the judgment of a court of competent jurisdiction. The state comptroller may institute any necessary proceeding before the surrogate's court to compel the deposit of such moneys with the county treasurer which have not been paid over or deposited after the expiration of six months.

NOTE.—The old section required every decree to contain the provision for payment to the county treasurer in two years. We change it so that it shall contain such direction only when there is a known absentee. The time is shortened because often money held so long, never is paid in.

§ 2742. Effect of judicial settlement of account; decree.

A judicial settlement of the account of an executor, [or] administrator, *guardian or trustee*, either by the decree of the surrogate's court, or upon an appeal therefrom, is conclusive evidence against all the parties [who were duly cited or appeared, or who duly waived a citation] *of whom jurisdiction was obtained* and all persons deriving title from any of them at any time, *as to all matters embraced in the account and decree*. [of the following facts, and no others:]

[1. That the items allowed to the accounting party, for money paid to creditors, legatees, and next of kin, for necessary expenses, and for his services, are correct.

2. That the accounting party has been charged with all the interest for money received by him, and embraced in the account, for which he was legally accountable.

3. That the money charged to the accounting party, as collected, is all that was collectible, at the time of the settlement, on the debts stated in the account.

4. That the allowances made to the accounting party, for the decrease, and the charges against him for the increase, in the value of property, were correctly made.]

[§ 2551. Decree settling an account, to contain summary thereof.]

Each decree, whereby an account is judicially settled, must contain, in the body thereof, a summary of the account as settled; or must refer to such a summary, which must be recorded in the same book, and is deemed a part of the decree.

NOTE.—It is better to make the effect general as to all matters, etc., than to specify certain matters. See general section, new 2550.

Former § 2551 consolidated.

[§ 2811. Certain provisions of title fourth made applicable.

Sections twenty-seven hundred and thirty-four to twenty-seven hundred and thirty-seven, both inclusive, sections twenty-seven hundred and thirty-nine to twenty-seven hundred and forty-one, both inclusive, and sections twenty-seven hundred and forty-three, twenty-seven hundred and forty-four and twenty-seven hundred and forty-six of this act, apply to and regulate the like matters where a testamentary trustee accounts, as prescribed in this title; except as otherwise prescribed in the next two sections. To each account, filed as prescribed in this title, must be annexed an affidavit, in the form prescribed in section twenty-seven hundred and twenty-nine of this act, for the affidavit to be annexed to the account of an executor or administrator; except that the expression, "the trust created by the will," with such other description of the trust, as is necessary to identify it, must be substituted in place of the words, "the estate of the decedent."]

Section 2809 repealed.

This section to be repealed. It is re-written into new § 2732 and other sections on judicial settlement.

[§ 2813. Effect of decree.

A decree, made upon a judicial settlement of the account of a testamentary trustee, as prescribed in this title, or the judgment rendered upon an appeal from such a decree, has the same force, as a judgment of the supreme court to the same effect, as against each party who was duly cited or appeared, and every person who would be bound by such a judgment, rendered in an action between the same parties.]

NOTE.—To be repealed as a new general section 2550, and § 2742 covers all decrees.

ARTICLE SECOND.

Costs in special proceedings, when and how payable; security for costs; compensation of special guardian, fees of appraisers, jurors, referees and witnesses, commissions and compensation of executors, administrators, guardians and trustees.

§ 2743 [2559]. *Costs in special proceedings.* [Id.; how awarded.]

Costs shall be awarded in special proceedings in surrogate's court solely in accordance with the following sections, and shall

[Costs, when awarded by a decree or order,] include all disbursements of the party to whom they are awarded, which might be taxed in the supreme court. The sum allowed for costs must be fixed by the surrogate, and inserted in the decree or order, and must be awarded to the party.

NOTE.—The last clause inserts the substance of decisions already made.

§§ 2559 and 2560 consolidated.

The first sentence is intended to make § 3240 inapplicable to surrogate's court. The substance of the section is already found in other sections.

§ 2744 [2557]. *Costs; how made payable.*

Except where special provision is otherwise made by law, costs, awarded by a decree or order may be made payable by the party personally, or out of the estate, or fund, or out of the share or interest therein of any person, or from both, in such proportion as the surrogate may direct, and [as] justice requires. [; but costs other than actual expenses, cannot be awarded to be paid out of an estate or fund, which is less than one thousand dollars in amount of value.]

NOTE.—Giving discretion to make costs payable out of a share in whole or in part gives the surrogate a chance to adjust the costs equitably where there are a number of appearances.

As the surrogate is given discretion as to amount, and the maximum is small, it would seem that the last sentence might be safely omitted.

[§ 2558. [Am'd, 1881, 1911.] Id.; when awarded.

The award of costs in a decree is in the discretion of the surrogate, except in one of the following cases:

1. Where special directions, respecting the award of costs, are contained in a judgment or order, made upon an appeal from the surrogate's determination, or upon a motion for a new trial of questions of fact tried by a jury; in either of which cases, costs must be awarded according to those directions.

2. When a question of fact has been tried by a jury; in which case, unless it is within the foregoing subdivision, the decree must award costs to the successful party.]

NOTE.— Paragraphs one and two to be repealed as being included in other section. Subd. 3 of original section transferred to new § 2746.

§ 2745. *Costs on order.*

The costs upon granting or refusing to grant an order, are in the discretion of the surrogate, and when allowed may be collected in the same manner as costs allowed upon granting or refusing to grant an order in the supreme court.

NOTE.— Substance found in former § 2556.

§ 2746 [2561]. When surrogate to fix amount of costs.

[In a case other than one of those specified in [the last] section *twenty-five hundred and sixty,*] The surrogate, upon rendering a decree, may, in his discretion, fix such a sum *as he deems reasonable*, to be allowed as costs, *to any party who has appeared by attorney*, [in addition to the disbursements as he deems reasonable] not exceeding, where there has not been a contest, twenty-five dollars, or where there has been a contest, seventy dollars; and, in addition thereto, where a trial or hearing upon the merits [before the surrogate] necessarily occupies more than [two days] *one day*, ten dollars for each additional day, *necessarily occupied in the trial or hearing and in preparing therefor*, and where a motion for a new trial is made [before the surrogate], if it is granted, *twenty-five* [seventy] dollars; if it is denied, *fifteen* [forty] dollars.

When the decree is made upon a contested application for probate [or revocation of probate] of a will, costs, payable out of the estate or otherwise, shall not be awarded to an unsuccessful contestant of the will, unless he is a special guardian for an infant *or incompetent*, appointed by the surrogate, or is named as an executor in a paper propounded by him in good faith as the last will of the decedent; but where a person named as the executor in a will propounds the will for probate, such person so named as executor may, *whether successful or not*, [in which case such person so named as executor may,] in the discretion of the surrogate, be awarded costs and all necessary disbursements made by him and all expenses incurred in the attempt to sustain the will; but the surrogate may order a copy of the stenographer's minutes to be furnished to the contestant's counsel, and charge the expense thereof to the estate, if he shall be satisfied that the contest is made in good faith.

NOTE.—This section as changed is intended to allow the surrogate to make an allowance to any party who appears, and in connection with § 2557 (new § 2744) to charge such costs upon the estate or a share in whole or in part as justice requires. Often the attorney who does not file objections "succeeds" and does the estate great good, and there should be some way to compensate him. Surrogates will not be likely to abuse this discretion.

Power to grant a new trial is found in § 2490, subd. 6.

Subd. 3 of § 2558 transferred to this section as the last paragraph.

§ 2747 [2562]. Additional allowance in settling accounts.

In addition to the sums specified in the last [two] section[s], the surrogate may, in his discretion, allow to an executor, administrator, guardian, or testamentary trustee, upon a judicial settlement of his account or on an intermediate accounting required by the surrogate, such a sum, as the surrogate deems reasonable, for his counsel fees and other expenses, not exceeding ten dollars for each day [occupied in the trial, and] necessarily occupied in preparing his account for settlement [and otherwise preparing for the trial.] *drawing, entering and executing the decree.*

NOTE.—This section now cuts out reference to trial which is covered by § 2561 (new § 2746), and authorizes an additional allowance to the accounting party for preparing his account and for drawing, entering and executing decree. Often the work of executing the decree is greater than in preparing the account, and the amount to be allowed for that purpose can be readily adjusted.

§ 2748. Compensation of special guardian.

A special guardian for an infant or incompetent shall receive a reasonable compensation for his services to be fixed by the surrogate, payable from the estate or fund, or from the interest of the ward therein, or from both in such proportion as the surrogate may direct.

§ 2749 [2563]. Allowance upon sale of real property.

Upon the disposition of real property of a decedent, as prescribed in [title fifth of] this chapter, the executor or administrator [or freeholder,] disposing of the property, must be allowed by the surrogate out of the proceeds of the sale brought into court. his *commissions and expenses*; [and he may be allowed out of the proceeds. a reasonable sum for his own services, not exceeding five dollars for each day actually and necessarily occupied by him in disposing of the property] and such a further sum as the surrogate thinks reasonable, for the necessary services of his attorney and counsel therein.

[§ 2564. Id.; no commissions allowed.

The allowances, specified in the last section, are in lieu of commissions.]

NOTE.—We omit reference to compensation, and also repeal § 2564, as commissions are provided for in general section, new § 2753.

§ 2750. Security for costs.

In any proceeding where an issue is raised by answer or objection by or on behalf of a non-resident of the state of New York against the proponent of a will, or an executor, administrator or trustee, or where the probate of a will has been tried before a jury which has disagreed, such proponent, executor, administrator or trustee shall be entitled in the discretion of the surrogate to have the person or persons raising such issue give security for costs.

NOTE.—On account of giving the right of trial by jury it has been thought wise to require security for costs in cases of non-residents, and in all cases of probate where the jury has once disagreed. While the latter provision may seem unjust, there should be some curb on “strike” contests, and the surrogate may be safely trusted not to require security if the contestant has a meritorious case.

§ 2751 [2589]. Costs of appeal.

The appellate court may award to the successful party the costs of the appeal; or it may direct that they abide the event of a new trial, or of the subsequent proceedings in the surrogate’s court. In either case, the costs may be made payable out of the estate or fund, or personally by the unsuccessful party, as directed by the appellate court; or, if such direction is not given, as directed by the surrogate.

The costs of an appeal, when they are awarded in a surrogate’s court, are the same as if they were awarded in the supreme court.

NOTE.—Last sentence transferred from § 2560.

§ 2752 [2565]. Fees of appraiser, referee, juror and witness.

An appraiser is entitled, in addition to his actual expenses, to a sum, to be fixed by the surrogate, not exceeding five dollars for each day actually and necessarily occupied by him in making the appraisal or inventory. The number of days' services and the expenses, if any, must be proved by the affidavit of the appraiser; and the sums payable therefor taxed by the surrogate, and paid by the executor or administrator.

[§ 2566. Id.; other officers and witnesses.]

[Each other officer, including a] A referee, *juror*, [and each] or witness is entitled to the same fees for his services and for traveling, as [he] is allowed for like services in the supreme court.

§ 2753 [2730]. Commissions of executor, [or] administrator, guardian or testamentary trustee.

On the settlement of the account of [an] any executor, [or] administrator, *guardian or testamentary trustee*, the surrogate must allow to him *his just, reasonable and necessary expenses actually paid by him, and if he be an attorney and counselor-at-law of this state, and shall have rendered legal services in connection with his official duties, such compensation for such legal services as shall appear to the surrogate to be just and reasonable; and in addition thereto the surrogate must allow to such executor, administrator, guardian or testamentary trustee for his services in such official capacity, [for his services,] and if there be more than one, apportion among them according to the services rendered by them respectively* [over and above his or their expenses]:

For receiving and paying out all sums of money not exceeding one thousand dollars, at the rate of five per centum.

For receiving and paying out any additional sums not amounting to more than ten thousand dollars, at the rate of two and one-half per centum.

For all sums above eleven thousand dollars, at the rate of one per centum.

*The value of any real or personal property distributed without sale, at the election of a devisee, legatee or distributee, or pursuant to a consent duly filed, shall be considered as money in making computation of commissions. But this shall not apply in case of a specific legacy or devise.**

If an executor acting as trustee, or if a trustee or guardian, is required to receive income and pay over the same, and such executor, trustee or guardian pays over said income and renders an annual account to the beneficiary of all his receipts and disbursements on account thereof, he shall be allowed, and may retain, the same commission on the amount so accounted for as he would be allowed upon principal on a judicial settlement; if he does not render such annual account, he shall be allowed, upon his judicial settlement, his commissions upon the total income from any money or property then payable to such beneficiary.

[In all cases such allowance must be made for their necessary expenses actually paid by them as appears just and reasonable.] If the gross value of the [personal property of the decedent] principal of the estate or fund accounted for amounts to one hundred thousand dollars or more, each executor, [or] administrator, *guardian or testamentary trustee* is entitled to the full compensa-

tion on principal and income allowed herein to a sole executor [or], administrator, *guardian or testamentary trustee*, unless there are more than three, in which case the compensation to which three would be entitled must be apportioned among them according to the services rendered by them, respectively, and a like apportionment shall be made in all cases where there shall be more than one executor or administrator]. Where the will provides a specific compensation to an executor, [or] administrator, *testamentary guardian* or trustee, he is not entitled to any allowance for his services, unless by a written instrument filed with the surrogate, he renounces the specific compensation. Where successive or different letters are issued to the same person on the estate of the same decedent, including a case where letters testamentary or letters of general administration, are issued to a person who has been previously appointed a temporary administrator, he is entitled to compensation in one capacity only, at his election, except that where he has received compensation in one capacity he is entitled to the excess, if any, of the compensation allowed by law, above the sum which he has already received in the other capacity.

NOTE.—Section changed so as to cover the provisions for commissions found in §§ 2761, 2802, 2810, 2850, 2856.

* This is to give commissions on property turned over in kind to avoid a sacrifice, etc., when consent is filed. See new §§ 2684, 2736.

Notice new matter in first part of section, providing for compensation where executor, etc., acts as attorney. This authorizes what the surrogate often allows to be done through a dummy attorney.

Last new matter covers rule now made by decisions, except that it prevents forfeiture of commissions on income if the beneficiary gets property on judicial settlement.

[§ 2560. Id.; when the same as in supreme court.]

[Where a question of fact has been tried by a jury, the costs, awarded against the unsuccessful party, are the same as the taxable costs of an action in the supreme court. The costs of an appeal, where they are awarded in a surrogate's court, are the same as if they were awarded in the supreme court.]

NOTE.—This general statement is repealed because it is found repeated in particular cases.

ARTICLE THIRD.

Appeal; when, how and to what court taken, and power of appellate court. Undertaking to perfect appeal and stay execution. Probate of heirship. Definition and application of other sections to this chapter.

§ 2754 [2570]. Appeal; when and to what court it may be taken.

An appeal to the appellate division of the supreme court may be taken from a decree of a surrogate's court, or from an order affecting a substantial right, made by a surrogate, or by a surrogate's court in a special proceeding, *by any party aggrieved thereby, except where the decree or order was rendered or made upon his default in appearing.*

NOTE.—Former §§ 2568, 2570, combined.

[§ 2568. When party may appeal.

Any party aggrieved may appeal from a decree or an order of a surrogate's court, in a case prescribed in this article, except where the decree or order of which he complains was rendered or made upon his default.]

NOTE.—Combined with new § 2754.

[§ 2569. When person not a party may appeal.

A creditor of, or person interested in, the estate or fund affected by the decree or order, who was not a party to the special proceeding, but was entitled by law to be heard therein, upon his application; or who has acquired, since the decree or order was made, a right or interest which would have entitled him to be heard, if it had been previously acquired; may intervene and appeal, as prescribed in this article. The facts which entitle such person to appeal, must be shown by an affidavit, which must be filed, and a copy thereof served with the notice of appeal.]

NOTE.—Repealed because the same subject is covered by § 1296, code.

[§ 2571. Intermediate order; how reviewed.]

An appeal taken from a decree, brings up for review each intermediate order, which is specified in the notice of appeal, and necessarily affected the decree, and which has not already been reviewed by the appellate court, upon a separate appeal taken from that order.]

NOTE.— Repealed because provided for in § 1301, code.

§ 2755 [2573]. Who must be made parties.

Each party *who has appeared in* [to] the special proceeding in the surrogate's court, [and each person not a party, who has, or claims to have, in the subject-matter of the decree or order, a right or interest, which is directly affected thereby, and which appears upon the face of the papers presented in the surrogate's court, or has become manifest in the course of the proceedings taken therein,] must be made a party to the appeal. A person not a party, [but who must be made a party, as prescribed in this section,] may be brought in by an order of the appellate court, made after the appeal is taken, *in such manner as the order may prescribe.* [; or the appeal may be dismissed on account of his absence. The appellate court may prescribe the mode of bringing in such a person, by publication, by personal service or otherwise. But this section does not require a person interested, but not a party, to be brought in, if he was legally represented, or was duly cited in the court below.]

NOTE.— See note to next section.

§ 2756 [2572]. Time to appeal; how taken.

An appeal [by a party] must be taken within thirty days after the service, upon the appellant, or upon the attorney, if any, who appeared for him in the surrogate's court, of a copy of the decree, or order from which the appeal is taken, and a written notice of the entry thereof, *except that the party entering such decree or order shall not be entitled to further notice to limit his time to appeal.* [An appeal by a person who was not a party, taken as prescribed in this article, must be taken within three months after the entry of the decree or order, unless the appellant's title was acquired by means of an assignment or conveyance from a party; in which case, the appeal must be taken within the time limited for the taking thereof by the assignor or grantor.]

[§ 2574. Appeal; how taken.]

An appeal must be taken by the service *upon each party to the appeal*, [within the state, upon each party to the special proceeding,] other than the appellant, and upon the surrogate, or the clerk of the surrogate's court, of a written notice, referring to the decree or order appealed from, and stating that the appellant appeals from the same, or from a specified part thereof. Where a party to the special proceeding in the court below appeared in person, the notice of appeal must be personally served upon him; where he appeared by an attorney, it must be served personally, either upon him or upon his attorney. [Where a party, who was duly cited, did not appear in the surrogate's court, notice of appeal must be served upon him personally, if he can, with due diligence, be found within the county; otherwise it may be served by depositing it, indorsed with a direction to the party, with the surrogate, or the clerk of the surrogate's court. Where a person to be served cannot, with due diligence, be found, to make personal service upon him, as prescribed in this section, the surrogate, or a justice of the supreme court, may, by order, prescribe such a mode of service as he thinks proper; and service in that mode has the same effect as personal service.]

NOTE.—Last part omitted as a person who did not appear should have no notice.

NOTE.—A party in default cannot appeal, new § 2754.

No appeal should be allowed to a person who was not a party; he should be made a party by opening the decree, or in the appellate court.

Former §§ 2572, 2574 consolidated.

§ 2757 [2576]. Appeal may be on the law or the facts; case to be made[, etc.]; reversal.

The appeal may be taken upon questions of law, or upon the facts, or upon both. If it is taken from a decree rendered upon the trial by the surrogate, *or by the surrogate and a jury*, of an issue of fact, it must be heard upon a case, to be made and settled by the surrogate, as prescribed by law, for the making and settling of a case upon an appeal in an action.

Such [An] appeal [from a decree or an order of a surrogate's court] brings up for review, by each court to which the appeal is carried, each decision, to which an exception is duly taken by the appellant, as prescribed in [this] section [twenty-five hundred and forty-five] 2542. But such a decree or order shall not be reversed, for an error in admitting or rejecting evidence, unless it appears to the appellate court that the exceptant was necessarily prejudiced thereby.

NOTE.—Part of former § 2545 consolidated with former § 2576. Remainder of former § 2545 is found in new § 2542.

§ 2758 [2575]. Certain provisions of chapter twelve made applicable.

The provisions of the following sections of this act, to wit: sections 1295 [twelve hundred and ninety-five, twelve hundred and ninety-seven, twelve hundred and ninety-eight,] to 1299 [twelve hundred and ninety-nine,] *both inclusive*, and 1301 to [thirteen hundred and three], 1303 and [thirteen hundred and five] 1305 to [thirteen hundred and nine,] 1309 *both inclusive*, apply to an appeal taken as prescribed in this article. *And for the purposes of such application the word "judgment" shall mean a decree.*

§ 2759 [2577]. Security to perfect appeal.

To render a notice of appeal effectual for any purpose, except in a case specified in the next section, or where it is specially prescribed by law, that security is not necessary to perfect the appeal, the appellant must give a written undertaking, with at least two sureties, to the effect that the appellant will pay all costs and damages which may be awarded against him upon the appeal, not exceeding two hundred and fifty dollars.

§ 2760 [2578]. Id.; where decree is for money or delivery of property, etc.

Notice of appeal by an executor, administrator, testamentary trustee, guardian, or other person appointed by the surrogate's court, from a decree, directing him to pay or distribute money, or to deposit money in a bank or trust company, or to deliver property; or by an executor or administrator from an order granting leave to issue an execution against him, as prescribed in section 1825 [eighteen hundred and twenty-five] of this act; does not stay the execution of the decree appealed from unless the appellant gives an undertaking, with at least two sureties, in a sum therein specified, to the effect that if the decree or order, or any part thereof, is affirmed, or the appeal is dismissed, the appellant will pay all costs and damages, which may be awarded against him upon the appeal, and will pay the sum so directed to be paid or collected, or, as the case requires will deposit or distribute the money, or deliver the property, so directed to be deposited, distributed, or delivered. or the part thereof as to which the decree or order is affirmed.

§ 2761 [2579]. Security to stay proceedings in case of commitment.

An appeal from a decree or an order, directing the commitment of an executor, administrator, testamentary trustee, guardian, or other person appointed by the surrogate's court, or an attorney or counsel employed therein, for disobedience to a direction of the surrogate, or for neglect of duty; or directing the commitment of a person refusing to obey a subpoena, or to testify, when required according to law; does not stay the execution of the decree or order appealed from, unless the appellant gives an undertaking* with at least, two sureties, in a sum therein specified, to the effect that if the decree or order appealed from, or any part thereof, is affirmed, or the appeal is dismissed, the appellant will, within twenty days after the affirmance or dismissal, surrender himself in obedience to the decree or order, to the custody of the sheriff of the county, wherein he was directed to be committed. [If the undertaking is broken, it may be prosecuted in the same manner, and with the same effect, as an administrator's official bond; and the proceeds of the action must be paid or distributed, as directed by the surrogate, to or among the persons aggrieved, to the extent of the pecuniary injuries sustained by them; and the balance, if any, must be paid into the county treasury.]†

NOTE.— * Incorporated in new section under decrees. New § 2557.

† Transferred to new § 2762, making the language applicable to prosecution of all undertakings.

§ 2762 [2581]. Amount and [R]erequisites of undertaking; action thereon.

[§ 2580. Amount of undertaking; how fixed.]

The sum specified in an undertaking, executed as prescribed in either of the last two sections, must [where the appeal is taken from a decree directing the payment, depositing, or distribution of money, be not less than twice the sum directed to be paid, deposited or distributed. Where the appeal is taken from an order granting leave to issue an execution, it must be not less than twice the sum, to collect which the execution may issue. In every other case, it must] be fixed by the surrogate, or by a judge of the appellate court, who may require proof, by affidavit, of the value of any property, or of such other facts as he deems proper. [The respondent may apply to the appellate court, upon notice, for an order requiring the appellant to increase the sum so fixed. If such an order is granted, and the appellant makes default in giving the new undertaking, the appeal may be dismissed or the stay dissolved, as the case requires.]

An undertaking, given as prescribed in the last [four] *three* sections, must be to the people of the state; must contain the name and residence of each of the sureties thereto; must be approved by the surrogate or a judge of the appellate court; and must be filed in the surrogate's office. [Except as otherwise specially prescribed, the filing of a proper undertaking, and service of the notice of appeal, perfect the appeal.]* The surrogate may, at any time in his discretion, make an order authorizing any person aggrieved to bring an action upon the undertaking, in his own name, or in the name of the people. *Such action may be prosecuted in the same manner, and with the same effect as an action upon an administrator's bond; and the proceeds of the action must be paid or distributed as directed by the surrogate, to or among the persons aggrieved, to the extent of the pecuniary injuries sustained by them, and the balance, if any, must be paid into the county treasury.* [Where it is brought in name of the people, the damages collected must be paid over to the surrogate and distributed by him as justice requires.]

NOTE.—By omitting the first portion of the section the amount will be fixed by the surrogate in all cases, and by omitting the second, the right to review the determination is taken away.

Former §§ 2580, 2581 consolidated.

NOTE.—*Provided for in new § 2759.

New matter taken from § 2579, new § 2761, and made applicable to all undertakings.

§ 2763 [2586]. Power of appellate court; further testimony.

Where an appeal is taken upon the facts, the appellate court has the same power to decide the questions of fact, which the surrogate had; and it may, in its discretion, receive further testimony or documentary evidence, and appoint a referee.

[§ 2587. Judgment or order upon appeal.]

The appellate court may reverse, affirm, or modify, the decree or order appealed from, and each intermediate order, specified in the notice of appeal, which it is authorized by law to review, and as to any or all of the parties; and it may, if necessary or proper, grant a new trial or hearing. *Upon an appeal from a determination of the surrogate, made upon an application pursuant to subdivision six of section twenty-four hundred and eighty-one the appellate court has the same power as the surrogate, and his determination must be reviewed as if an original application were made to that court.* The decree or order appealed from may be enforced, or restitution may be awarded, as the case requires, as prescribed in title first of chapter twelfth of this act, with respect to an appeal from a judgment.

NOTE.—These two sections to be consolidated. New matter from former § 2481, new § 2490, subd. 6.

§ 2764 [2585]. Appeal; proceedings thereupon.

In the appellate division of the supreme court the order made upon an appeal from a decree or an order of a surrogate's court must be entered with the clerk of the appellate division, and a certified copy thereof annexed to the papers transmitted from the court below upon which the appeal was heard, must be transmitted to the court from which the appeal was taken, and the court below shall enter the judgment or order necessary to carry the determination of the appellate division into effect.

[§ 2588. Award of jury trial upon reversal in probate cases.]

Where the reversal or modification of a decree by the appellate court is founded upon a question of fact, the appellate court must, if the appeal was taken from a decree made upon a petition to admit a will to probate, or to revoke the probate of a will make an order, directing the trial, by a jury, of the material questions of fact, arising upon the issues between the parties. Such an order must state, distinctly and plainly, the questions of fact to be tried; and must direct the trial to take place, either at a trial term of the supreme court specified in the order; or in the county court of the county of the surrogate. After the trial, a new trial may be granted, as prescribed in section two thousand five hundred and forty-eight of this act.]

NOTE.—§ 2548 has been repealed and its substance inserted in § 2547. (New § 2539.)

This section should be repealed, as trial by jury will have been waived and the Appellate Division should give such judgment as justice requires.

[§ 2582. Decree [for probate, etc.]; how far suspended by appeal.]

An appeal from a decree of a surrogate, admitting a will to probate, or granting letters testamentary, or letters of administration, or from an order or judgment of the appellate division of the supreme court affirming a decree of the surrogate admitting a will to probate or granting letters testamentary or letters of administration, does not stay the issuing of letters, where, in the opinion of surrogate, manifested by an order, the preservation of the estate requires that the letters should issue.* [Letters so issued confer upon the person named therein all the powers and authority, and subject him to all the duties and liabilities of an executor or administrator in an ordinary case, except that they do not confer power to sell real property by virtue of a provision in the will, or to pay or to satisfy a legacy, or distribute the unbequeathed property of the decedent, until after the final determination of the appeal; and in case letters shall have been issued before such appeal the executor or administrator, on a like order of the surrogate, may exercise the powers and authority, subject to the duties, liabilities and exceptions above provided.]

NOTE.—* Incorporated in new section under "decrees." (New § 2557.) Sections 2583, 2584 taken out of appeal and put under decrees. (New § 2557.)

§ 2765 [2654]. Heir, etc., may apply to establish heirship.

Where a person, seized in fee of real property within the state, dies intestate, or without having devised his real property [to specific persons], his heirs, or any of them, or any person deriving title from or through such heirs, or any of them, may present to the surrogate's court which has acquired jurisdiction of the estate, or, if no surrogate's court has acquired such jurisdiction, then to the surrogate's court of the county where the real property, or any part thereof is situated, a [written] petition, [duly verified,] describing the real property, setting forth the facts upon which the jurisdiction of the court depends, and the interest or share of the petitioner, and of each other heir of the decedent, in the real property, and praying for a decree establishing the right of inheritance thereto, and that all the heirs of the decedent may be cited to *show cause why the prayer of the petition should not be granted* [attend the probate of that right]. Upon the presentation of such a petition *a citation must be issued* [the surrogate must issue a citation] accordingly, *except in a case where the petitioner was a party to a judicial settlement, the decree upon which determined the rights of the parties to such real estate.*

NOTE.—Right is given by the revision to determine heirship on judicial settlement (new § 2735), hence the last three lines.

[§ 2655. Citation; appearance of persons interested.

The citation must set forth the name of the decedent and of the petitioner; the interest or share which the petitioner claims; and a brief description of the real property. Any heir of the decedent, who has not been cited, may nevertheless appear at the hearing; and thereby make himself a party to the special proceeding. But this section does not affect a right or interest of such a person, unless he becomes a party.]

NOTE.—Same matter embodied in new §§ 2511, 2523.

§ 2766 [2656]. What facts to be ascertained; decree thereupon.

Upon the return of the citation, the surrogate's court must hear the allegations and proofs of the parties[. If it appears that there is a contest respecting the heirship of a party, or respecting the share to which a party is entitled, as an heir of the decedent, the surrogate must dismiss the proceedings. If there is no such contest, he must inquire into the facts and circumstances of the case.] *and determine all the issues raised.* The petitioner must establish[, by satisfactory evidence.] the fact of the decedent's death; the place of his residence at the time of his death; his intestacy, either generally, or as to the real property in question; the [number of] heirs entitled to inherit the property in question; the name, age, residence and relationship to the decedent, of each; and the interest or share of each in the property. The surrogate, when these facts are established, must make a decree, describing the property, and declaring that the right of inheritance thereto has been established to his satisfaction, in accordance with the facts, which must be recited in the decree.

NOTE.—Provision is now made for trial of such questions by jury so that the proceeding need not be dismissed in event of contest.

§ 2767 [2657]. Decree to be recorded; effect thereof.

A *certified*[n exemplified] copy of a decree, made as prescribed in the last section[, and of the proofs taken thereupon,] may be recorded in the office of the clerk, or of the register, as the case requires, of each county in which the real property is situated, as prescribed by law for recording a deed, and, from the time when *such copy is* [the exemplifications are] so recorded, the decree, or the record thereof, is *conclusive* [presumptive] evidence of the facts so declared to be established thereby *against all parties to such proceeding.*

NOTE.—As provision is made for trial by jury, the decree should be conclusive. There is no need for recording the proofs.

[§ 2658. Petition to vacate or modify decree.]

Any person, other than a party to a special proceeding, instituted as prescribed in this article, or the heir, devisee, or assignee of such party, may, at any time within ten years after a decree establishing the right of inheritance is made therein, present to the court a written petition, duly verified, showing that he has a right, title, or interest in the real property, or a part thereof, which is injuriously affected by the decree; stating that the decree is erroneous in some material particular, specified therein; and praying that the decree may be set aside or modified in that particular, and that all the persons, whose heirship was established by the decree, may be cited to show cause, why the prayer of the petition should not be granted. If an heir has since died or has conveyed the share or interest so established by a deed duly recorded in the county, the petition must state that fact; and must pray that the persons, who have succeeded to his interest, may be also cited. Upon the presentation of such a petition, the surrogate must issue a citation accordingly.】

NOTE.—As the decree may be made after verdict of jury, the surrogate should not modify it. His own decree he could vacate and modify by his general jurisdiction. Repeal this section.

[§ 2659. Id.; when granted.]

Where a petition is presented as prescribed in the last section, and it appears, upon a hearing, that, if the petitioner, or his ancestor, testator, or grantor, had been a party to the special proceeding, the decree or a part thereof could not have been legally made, as prescribed in this article, the surrogate must vacate or modify the decree accordingly. An exemplified copy of the decree or order, so vacating or modifying the original decree, may be recorded in the office of any clerk or register, where a copy of the original decree was recorded.】

NOTE.—See note to prior section.

§ 2768 [2514]. Definition of expressions used in this chapter.

In construing the provisions of this chapter, the following rules must be observed, except where a contrary intent is expressly declared in the provision to be construed, or plainly apparent from the context thereof:

1. The word "intestate," signifies a person who died without leaving a valid will; but where it is used with respect to particular property it signifies a person who died without effectually disposing of that property by will whether he left a will or not.

2. The word "assets," signifies personal property applicable to the payment of the debts of a decedent.

3. The word "debts" includes every claim and demand, upon which a judgment for a sum of money, or directing the payment of money, could be recovered in an action; and the word "creditor" includes every person having such a claim or demand, any person having a claim for expense of administration, or any person having a claim for funeral expenses.

4. The word, "will," signifies a last will and testament, and includes all the codicils to a will.

5. The expression, "letters of administration," includes letters of temporary administration.

6. The expression, "testamentary trustee," includes every person, except an executor, an administrator with the will annexed, or a guardian, who is designated by a will, or by any competent authority, to execute a trust created by a will; and it includes such an executor or administrator, where he is acting in the execution of a trust created by the will, which is separable from his functions as executor or administrator.

7. The word, "surrogate," where it is used in the text, or in a bond or undertaking, given pursuant to any provision of this chapter, includes every officer or court vested by law with the functions of surrogate.

8. The expression, "judicial settlement," where it is applied to an account, signifies a decree of a surrogate's court, whereby the account is made conclusive upon the parties to the special proceeding, either for all purposes, or for certain purposes specified in the statute; and an account thus made conclusive is said to be "judicially settled."

9. The expression, "intermediate account," denotes an account filed in the surrogate's office, for the purpose of disclosing the acts

of the person accounting, and the condition of the estate or fund in his hands, and not made the subject of a judicial settlement.

10. The expression, "upon the return of a citation," where it is used in a provision requiring an act to be done in the surrogate's court, relates to the time and place at which the citation is returnable, or to which the hearing is adjourned; includes a supplemental citation, issued to bring in a party who ought to be but has not been cited; and implies that before doing the act specified, due proof must be made, that all persons required to be cited have been duly cited.

11. The expression, "persons interested," where it is used in connection with an estate or a fund, includes every person entitled, either absolutely or contingently, to share in the estate or the proceeds thereof, or in the fund, as husband, wife, legatee, next of kin, heir, devisee, assignee, grantee or otherwise except as a creditor. Where a provision of this chapter prescribes that a person interested may object to an appointment or may apply for an inventory, an account, or increased security, an allegation of his interest, duly verified, suffices, although his interest is disputed; unless he has been excluded by a judgment, decree, or other final determination, and no appeal therefrom is pending.

12. The term, "next of kin," includes all those entitled, under the provisions of law relating to the distribution of personal property, to share in the unbequeathed residue of the assets of a decedent after payment of debts and expenses, other than a surviving husband or wife.

13. The expression, "real property," includes every estate, interest, and right, legal or equitable, in lands, tenements, or hereditaments, except those which are determined or extinguished by the death of a person seized or possessed thereof, or in any manner entitled thereto, and except those which are declared by law to be assets. The word, "inheritance," signifies real property as defined in this subdivision, descended as prescribed by law. The expression, "personal property," signifies every kind of property which survives a decedent, other than real property as defined in this subdivision, and includes a right of action conferred by special statutory provision upon an executor or administrator.

14. The word "*guardian*" refers to a guardian of an *infant's* person or property, or both, appointed by the surrogate's court or the supreme court, and includes a guardian appointed by will or deed.

15. *Whenever in this chapter a paper or instrument is required to be "acknowledged, or proved, and duly certified," the same shall be acknowledged or proven in the same manner as a deed is required to be acknowledged or proved and certified to be recorded in that county, except that when executed within the state of New York, no certificate of the county clerk shall be required.*

16. *The word "respondent" when used in this chapter signifies every party to a special proceeding, except the petitioner.*

17. *The words "surrogate's court" and "surrogate" where they refer to jurisdiction mean the particular court or surrogate having jurisdiction of the estate or fund.*

18. *Whenever in this chapter a paper is directed to be deposited in the "post-office," such deposit may be made in any post-office or letter box maintained and exclusively controlled by the United States government.*

§ 2769 [2482]. Application of chapter; confirmation of previous acts.

Each provision of this chapter, relating to the jurisdiction of the surrogate's court, to take the proof of a will, and to grant letters testamentary or letters of administration or regulating the mode of proceeding in any manner connected with the estate of the decedent applies, unless otherwise expressly declared therein, whether the will was made, or the decedent died, before or after this chapter takes effect. All acts hitherto of surrogates and officers acting as such in completing by certifying in their own names any uncertified wills, and by signing and certifying in their own names any uncertified records of wills and of other proofs and examinations taken in the proceedings of probate thereof, before their predecessors in office, are hereby confirmed and declared to be valid and in full compliance with the pre-existing statutory requirements.

§ 2770 [2538]. Certain provisions made applicable to proceedings in surrogates' courts.

Except where a contrary intent is expressed in, or plainly implied from the context of, a provision of this chapter, [the following] *all other* portions of this act, [to wit; title first, and articles third and fourth of title sixth, of chapter eighth, and articles first and second of title third of chapter ninth,] *and the general rules of practice* apply to surrogate's courts and to the proceedings therein, so far as they can be applied to the substance and subject matter of a proceeding without regard to its form.

NOTE.—On account of enlarged jurisdiction, jury, trial, etc., we omit specification of certain parts, and include all the Code, as limited by the language used.

§ 2771. *Effect of this chapter on laws applicable to certain counties.*

Nothing in this chapter shall repeal, amend or modify any existing law specially applying to any county, which is inconsistent with any section of this chapter.

Sections to be amended which are not included in chapter XVIII are 836, 1822, 1835, 1836, 1836-a, 1844, 1845, 1903.

§ 836. Application of the last three sections.

The last three sections apply to any examination of a person as a witness unless the provisions thereof are [expressly] waived [upon the trial or examination] by the person confessing, the patient or the client. But a physician or surgeon or a professional or registered nurse, may upon a trial or examination disclose any information as to the mental or physical condition of a patient who is deceased, which he acquired in attending such patient professionally, except confidential communications and such facts as would tend to disgrace the memory of the patient, when the provisions of section eight hundred and thirty-four have been [expressly] waived [on such trial or examination] by the personal representatives of the deceased patient, or if the validity of the last will and testament of such deceased patient is in question, by the executor or executors named in said will, or the surviving husband, widow or any heir-at-law or any of the next of kin, of such deceased, or any other party in interest. But nothing herein contained shall be construed to disqualify an attorney [in the probate of a will heretofore executed or offered for probate or hereafter to be executed or offered for probate] from becoming a witness, as *to what was said and done in the presence of one or both subscribing witnesses to the will concerning* [to] its preparation and execution [in case such attorney is one of the subscribing witnesses thereto]. In an action for the recovery of damages for a personal injury the testimony of a physician or surgeon, or of a professional or registered nurse attached to any hospital, dispensary or other charitable institution as to information which he acquired in attending a patient in a professional capacity, at such hospital, dispensary, or other charitable institution shall be taken before a referee appointed by a judge of the court in which such action is pending; provided, however, that any judge of such court at any time in his discretion may, notwithstanding such deposition, order that a subpoena issue for the attendance and examination of such physician or surgeon or professional or registered nurse, upon the trial of the action. In such case a copy of the order shall be served, together with the subpoena. Sections eight hundred and seventy-two, [eight hundred and seventy-three,*] eight hundred and seventy-four, eight hundred and seventy-five, eight hundred and seventy-six, eight hundred and

seventy-nine, eight hundred and eighty, eight hundred and eighty-four and eight hundred and eighty-six of this code apply to the examination of a physician or surgeon or a professional or registered nurse, as prescribed in this section. [The waivers herein provided for must be made in open court on the trial of the action, or proceeding, and a paper executed by a party prior to the trial, providing for such waiver shall be insufficient as such a waiver. But the attorneys for the respective parties, may prior to the trial, stipulate for such waiver, and the same shall be sufficient therefor.]

NOTE.—The change made as to waiver makes the last sentence unnecessary.

Notice the provision that an attorney may testify in certain cases.

* Already repealed.

[§ 1822. Limitation of action by creditor on claim rejected, etc.]

Where an executor or administrator disputes or rejects a claim against the estate of a decedent, exhibited to him, either before or after the commencement of the publication of a notice requiring the presentation of claims, as prescribed by law, unless a written consent shall be filed by the respective parties with the surrogate that said claim may be heard and determined by him upon the judicial settlement of the accounts of said executor or administrator as provided by section twenty-seven hundred and forty-three, the claimant must commence an action for the recovery thereof against the executor or administrator within six months after the dispute or rejection, or, if no part of the debt is then due, within six months after a part thereof becomes due; in default whereof he, and all the persons claiming under him are forever barred from maintaining such an action thereupon, and from every other remedy to enforce payment thereof out of the decedent's property.]

NOTE.—Repeal. See note to new § 2681.

§ 1835. Costs; how awarded.

Where a judgment for a sum of money only is rendered against an executor or administrator, in an action brought against him in his representative capacity, costs shall not be awarded against him, except as prescribed in the next section, *but the prevailing party is entitled to recover the fees of reference and witnesses, and other necessary disbursements, which may properly be taxed, in addition to the amount of damages recovered.*

§ 1836. Costs, when awarded, etc.

Where it appears in a case specified in the last section that the plaintiff's demand was presented within the time limited by a notice published as prescribed by law, requiring creditors to present their claims and that the payment thereof was unreasonably resisted or neglected, or that the defendant did not *begin a proceeding for a judicial settlement of his account within thirty days from the day when he might have begun such proceeding, or did not* [file] *serve the rejection and consent provided in section 2681* [eighteen hundred and twenty-two] at least [ten] *thirty days before the time when he might begin such settlement* [expiration of six months from the rejection thereof] the court may award costs and disbursements, or disbursements without costs, against the executor or administrator to be collected either out of his individual property, or out of the property of the decedent, as the court directs, having reference to the facts which appear upon the trial. Where the action is brought in the supreme court, or any county court, the facts must be certified by the judge or referee before whom the trial took place.

NOTE.—Since § 4, chap. 65, L. 1909, repealed chap. 479, L. 1851, which provided that disbursements might be paid on reference of claim against an estate, there is now no authority for such allowance.

NOTE.—See new § 2681 for trial of claims on judicial settlement. See new §§ 2680, 2681.

§ 1836-a. Foreign executor or administrator may sue or be sued.

An executor or administrator duly appointed in any other state, territory, or district of the United States, or in any foreign country, may sue or be sued in any court in this state in his capacity of executor or administrator in like manner and under like restrictions as a nonresident may sue or be sued, if, within twenty days after any such executor or administrator shall commence, or appear in, any action or proceeding in any court in this state, or within twenty days after he shall be required or directed by summons or otherwise to appear therein, there shall be filed in the office of the clerk of the court in which such action or proceeding shall be brought or be pending, a copy of the letters testamentary or letters of administration issued to such executor or administrator duly authenticated as prescribed by section [twenty-seven hundred and four of the code of civil procedure;] *forty-five of the Decedent Estate Law*; in default whereof all proceedings in such action or proceeding may be stayed until such duly authenticated copy of such letters shall be so filed. *But this section shall not permit any such foreign representative to sue for or recover any money or property in this state belonging to a deceased non-resident at the time of his death.*

NOTE.—This section, without the proposed amendment, would permit judgment for a bank deposit without taking out principal or ancillary letters, and thereby leave the comptroller and creditors without security for their claims. The limitation in the last line excludes actions for damages, etc., which causes of action are not property belonging to the deceased at the time of his death.

§ 1844. When action therefor may be brought against heirs and devisees.

An action, to enforce the liability declared in section one hundred and one of the decedent estate law, cannot be maintained, except in one of the following cases:

1. Where *one year has* [three years have] elapsed since the death of the decedent, and no letters testamentary, or letters of administration, upon his estate, have been granted within the state.

2. Where *there has been a judicial settlement of the accounts of the executor or administrator, or where eighteen months have* [Where three years have] elapsed, since letters testamentary, or letters of administration, upon his estate, were granted, within the state.

NOTE.—Last mentioned time of 18 months inserted to agree with new § 2633.

§ 1845. Effect of application to sell real property.

Where it appears that, at the time of the commencement of such an action, a *proceeding for the judicial settlement of the accounts of the executors or administrator is* [petition, seasonably presented, as prescribed by law, praying for a decree to dispose of real property of the decedent, for the payment of his debts, was] pending in a surrogate's court, having jurisdiction, the proceedings in the action, subsequent to the complaint, must be stayed by the court, until the *proceeding* [petition] is disposed of, unless the plaintiff elects to discontinue. If a decree to dispose of real property [pursuant to the prayer of the petition,] is granted, the action must be dismissed, unless the plaintiff has alleged in his complaint, or alleges in a supplemental complaint, that real property, other than that included in the decree, descended or was devised to the defendants. If the plaintiff elects to proceed under such an allegation, he is entitled to a preference in payment, out of the real property, with respect to which the allegation is made; but he cannot share, as a creditor, in the distribution of the money, arising from the disposal of the real property, described in the decree; and the judgment in the action does not charge, or in any way affect, that property.

§ 1903. Distribution of damages recovered.

The damages recovered in an action, brought as prescribed in the last section, are exclusively for the benefit of the decedent's husband or wife, and next of kin; and, when they are collected, they must be distributed by the plaintiff, as if they were unbequeathed assets, left in his hands, after payment of all debts, and expenses of administration; subject however to the following provisions to-wit:

1. In case the decedent shall have left him surviving a wife or a husband, but no children, the damages recovered shall be for the sole benefit of such wife or husband;

2. *In case the decedent leaves neither husband nor wife, nor issue, but leaves a father who has abandoned him, or who has been by judgment separated or divorced from the mother for his own fault, or who has left the care and custody of their child to the mother, the damages or recovery shall be for the sole benefit of such mother.*

3. *In case the decedent leaves no husband or wife, issue or father, or having left a father entitled to recover, who dies prior to the recovery or verdict, the damages or recovery shall be for the sole benefit of the mother if then living.*

[The plaintiff may deduct from the recovery] The reasonable expenses of the action, the reasonable funeral expenses of the decedent, and **[his]** *the commissions of the plaintiff upon the residue may be fixed* **[which must be allowed]** by the surrogate, **[upon notice, given in such a manner and to such persons, as the surrogate deems proper.]** *upon the judicial settlement of the plaintiff's account, and may be deducted from the recovery.*

NOTE.—The change is made to obviate a great injustice now done to mothers who now have no right in such recovery.

A new section has been drawn providing for a judicial settlement as to such a fund. See new § 2720.

CODE TABLE

Table showing where former sections of Chapter XVIII may be found in the Revision.

Original code section	Embodied in revised code sections	Original code section	Embodied in revised code sections
2472	2510	2505 Repeal. Rewritten into..	2504
2472a Repealed except as found in	2510	2506	2505
2473	2513	2507	2473
2474 Repealed. Rewritten into.	2512	2508	2491
2475	2514	2509	2491, 2493, 2503
2476	2515	2509a	2492
2477	2516	2510	2503
2478	2517	2511	2475
2479 Repealed.		2512	2494, 2496
2480 Repealed.		2513	2497, 2498, 2501
2481	2490, 2763, 2503	2513a	2495
2482	2769	2514	2768
2483	2472	2515	2522
2484	2478	2516 Repeal. Rewritten into..	2518
2485	2479	2517	2518
2486	2480	2518 Repeal. Rewritten into..	2490
2487	2481	2511, 2524, 2529, 2550	
2488	2482	2519 Repeal. Rewritten into..	2523
2489	2483	2520	2525, 2529
2490	2507	2521 Repeal. Rewritten into..	2525
2491	2508	2522 Repeal. Rewritten into..	2526
2492	2484	2523 Repeal. Rewritten into..	2526
2493	2485	2524 Repeal. Rewritten into..	2529
2494	2509		2530
2495	2474	2525 Repeal. Rewritten into..	2529
2496	2476		2531
2497	2477	2526 Repeal. Rewritten into..	2525
2498	2486		2529
2499	2487	2527	2530
2500	2488, 810	2528 Repeal. Rewritten into..	2511
2501 Repeal, except as found in.	2500		2533
2502 Repeal, except as found in...2486, 2500, 2552, 2719		2529 To Judiciary Law.	
2503	2500, 2489	2530	2534
2504	2506, 2504	2531 Repealed.	
		2532	2531
		2533	2519

Original code section	Embodied in revised code sections	Original code section	Embodied in revised code sections
2534	2520	2580	2762
2535	2532	2581	2759, 2762
2536 Already repealed.		2582 Repeal	2557, 2560
2537	2699	2583	2557
2538	2770	2584	2557
2539	2543	2585	2764
2540	2544	2586	2763
2541	2498	2587	2763
2542	2499	2588 Repeal	2539
2543	2499	2589	2751
2544	2545	2590	2558
2545	2542, 2757	2591	2560
2546	2536	2592	2561
2547	2538	2593	2562
2548 Already repealed.		2594	2568
2549 Already repealed.		2595	2576
2550 Repeal. Rewritten into..	2548	2596	2582
2551	2742	2597	2577
2552	2549	2598	2578
2553	2500, 2551	2599 Repeal. Covered by	2574
2554	2553	2600	2579
2555	2554	2601	2580
2556 Repeal. Rewritten into..	2548	2602	2698
	2745	2603	2555
2557	2744	2604	2556
2558 Repeal	2746	2605	2563, 2726, 2734
2559	2743	2606	2549, 2584, 2725, 2734
2560 Repeal	2751, 2743	2607	2583
2561	2746	2608	2584
2562	2747	2609	2585
2563	2749	2610	2587
2564 Repeal.		2611 In Dec. Est. Law.	
2565	2752	2612 Repeal. Rewritten into..	2565
2566	2752		2603, 2655
2567	2500, 2502	2613	2626, 2693, 2695
2568 Repeal	2754	2614 Repeal. Rewritten into...	2609
2569 Repeal.		2615	2610
2570	2754	2616	2523, 2524, 2610
2571 Repeal.		2617	2511, 2618
2572	2756	2618	2611
2573	2755	2619	2543, 2544, 2612
2574	2756	2620 Repeal. Rewritten into..	2498
2575	2758		2499, 2547, 2612, 2620
2576	2757	2621	2613
2577	2759	2621a	2607
2578	2760	2622	2614
2579	2557, 2761, 2762	2623	2620, 2614

Original code section	Embodied in revised code sections	Original code section	Embodied in revised code sections
2624 Consolidated with.....	2615	2669	2594
2625 Repeal.		2670	2596
2626 Already repealed.		2671 Repealed. Rewritten into.	2596
2627 Already repealed.		2672	2597
2628 In Dec. Est. Law.		2673	2598
2629	2621	2674	2599
2630	2622	2675	2600
2631	2623	2676	2601
2632 Consolidated with	2623	2677 Consolidated with	2601
2633 In Dec. Est. Law.		2678 Repeal.	
2634 Repeal	2753	2679 Repeal.	
2635 Repeal.		2680 Repeal.	
2636 Repeal. Rewritten into...	2625	2681	2602
2637 Repeal.		2682 Repealed. Rewritten into.	2598
2638	2567		2599
2639	2628	2683 Repeal.	
2640 Repeal. Covered by.....	2625	2684	2624
2641 Repeal. Covered by.....	2566	2685	2569
2642	2627, 2694	2686	2570
2643	2603	2687	2571
2644	2604, 2521	2688 Consolidated with	2571
2645	2605	2689	2572
2646 Repealed.		2690	2573
2647 Already repealed.		2691	2574
2648 Already repealed.		2692	2563
2649 Already repealed.		2693	2606
2650 Already repealed.		2694 In Dec. Est. Law.	
2651 Already repealed.		2695	2629
2652 Already repealed.		2696	2630
2653 Already repealed.		2697	2631
2653a Repeal.		2698	2511, 2632
2654	2765	2699	2633
2655 Repeal	2511, 2523	2700	2634
2656	2766	2701	2635
2657	2767	2702	2636
2658 Repeal.		2703 In Dec. Est. Law.	
2659 Repeal.		2704 In Dec. Est. Law.	
2660	2588, 2603	2705	2608
2661 Repeal. Rewritten into...	2564	2706 Repeal.	
	2565	2707	2675
2662	2490, 2521, 2589	2708 Repeal.	
2663	2511, 2524, 2590	2709 Repeal	2676
2664	2559, 2591, 2592	2710	2676
2665 Repeal. Rewritten into...	2592	2711	2665, 2666, 2752
2666 Repealed.		2712	2672
2667 Repeal. Rewritten into...	2480	2713	2670
2668 Repealed.		2714	2666, 2667, 2673

Original code section	Embodied in revised code sections	Original code section	Embodied in revised code sections
2715	2668	2762 Already repealed.	
2716	2669	2763 Repeal.	
2717	2684, 2733	2764	2712
2718	2677, 2678	2765	2704
2718a Repeal	2681	2766 Already repealed.	
2719	2682, 2683	2767 Already repealed.	
2720	2674	2768 Already repealed.	
2721	2688	2769 Already repealed.	
2722 Repeal	2687	2770 Already repealed.	
2723	2691	2771 Repeal.	
2724	2510, 2671, 2735	2772 Already repealed.	
2725	2721	2773 Already repealed.	
2726	2510, 2726	2774 Repeal.	
2727 .. 2535, 2721, 2722, 2727, 2728		2775 Already repealed.	
2728	2729, 2730, 2731	2776 Already repealed.	
2729	2686, 2721, 2732, 2733	2777	2714
2730	2753	2778 Already repealed.	
2731	2679	2779 Already repealed.	
2732 In Dec. Est. Law.		2780 Already repealed.	
2733	2738	2781 Already repealed.	
2734 In Dec. Est. Law.		2782	2715
2735 Already repealed.		2783	2715
2736 Already repealed.		2784 Already repealed.	
2737 Already repealed.		2785	2716
2738 Already repealed.		2786 Already repealed.	
2739 Already repealed.		2787 Already repealed.	
2740 Already repealed.		2788 Already repealed.	
2741 Already repealed.		2789 Already repealed.	
2742	2742	2790 Already repealed.	
2743	2742, 2735	2791 Already repealed.	
2744	2736	2792 Already repealed.	
2745	2737	2793 Already repealed.	
2746	2664, 2669, 2739	2794 Already repealed.	
2747	2740	2795 Already repealed.	
2748	2741	2796 Already repealed.	
2749 Repeal	2702, 2703	2797 Already repealed.	
2750 Repeal.		2798 Repeal	2707
2751 Repeal	2713	2799 Repeal	2707, 2711
2752 Repeal.		2800	2717
2753 Repeal.		2801	2718
2754 Repeal.		2801a	2697
2755 Repeal.	2706	2802 Repeal	2721, 2723, 2753
2756	2707	2803 Repeal	2726, 2727
2757	2707	2804	2689
2758	2708	2805	2690
2759 Repeal.		2806 Repeal	2689
2760	2710	2807 Repeal	2724, 2726
2761	2753	2808 Repeal	2724, 2726, 2727

Original code section	Embodied in revised code sections	Original code section	Embodied in revised code sections
2809 Repeal.		2835 Repeal. Rewritten.....	2572
2810 Repeal	2729, 2730, 2753	2836 Repeal. Rewritten into..	2573
2811 Repeal	2730, 2732	2837 Repeal	2726
2812 Repeal	2737	2838	2654
2813 Repeal	2742, 2550	2839	2655
2814 Repeal. Rewritten into..	2572	2840	2656
2815 Repeal	2639	2841 Repeal.	
2816 Repeal.		2842	2660
2817 Repeal. Covered by.....	2569	2843	2558, 2661
2818	2638	2844	2662, 2663
2819	2640	2845	2663
2820	2641	2846	2664
2821	2643, 2649	2847 Repeal	2726, 2727
2822 Repeal	2644, 2645, 2646	2848 Repeal	2726
2823 Repeal	2646, 2647	2849 Repeal	2729, 2730
2824 Repeal	2647	2850 Repeal	2730, 2753
2825 Repeal	2647, 2648	2851	2657
2826 Repeal	2648	2852	2658
2827 Repeal	2644, 2645, 2646	2853 Repeal	2658
2828 Repeal	2649	2854 Repeal.	
2829 Repeal	2648	2855 Repeal	2660
2830	2559, 2650, 2651	2856 Repeal ..	2726, 2727, 2728, 2753
2831	2652	2857 Repeal. Embodied in....	2550
2832 Repeal. Rewritten into..	2569	2858 Repeal. Embodied in....	2569
2833 Repeal. Rewritten into..	2570	2859 Repeal. Embodied in....	2572
	2571	2860	2659
2834 Consolidated with	2570	1822	2681

STATE OF NEW YORK

REPORT

OF THE

New York State Training School for Boys

Yorktown Heights

Westchester County, New York

TRANSMITTED TO THE LEGISLATURE FEBRUARY 9, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914

STATE OF NEW YORK

No. 24.

IN SENATE

FEBRUARY 9, 1914.

REPORT

OF THE

STATE TRAINING SCHOOL FOR BOYS

Yorktown Heights, Westchester County, New York.

ALBANY, FEBRUARY 9, 1914.

*To the Honorable Robert F. Wagner, Lieutenant-Governor and
President of the Senate:*

We have the honor to transmit to the Legislature the second annual report of the Board of Managers of the New York State Training School for Boys, appointed pursuant to the provisions of chapter 639 of the Laws of 1911.

Yours very respectfully,

WM. B. OSGOOD FIELD,

President, Board of Managers.

REPORT

The Board of Managers of the New York State Training School for Boys is now constituted as follows:

Mrs. August Belmont,
Dr. John E. Dearden,
Mr. T. Pearsall Field,
Mr. Wm. B. Osgood Field,
Mr. Eliphalet N. Potter,
Mr. Isaac Purdy,
Mr. William I. Walter.

The organization of the Board is as follows:

Wm. B. Osgood Field, President,
Dr. John E. Dearden, Secretary,
T. Pearsall Field, Treasurer.

The past year has not been one of success in the development of the Training School, as had been hoped by the Managers, owing to a number of reasons which were entirely beyond their control. One of the main causes was the neglect and refusal of the State Architect to prepare plans and specifications for the buildings. Another cause was the refusal of the Commissioner of the State Board of Health to authorize the installation of the sewage disposal and water supply system which had already been sanctioned by him. The State Architect refused to proceed with the matter of plans and specifications until the question of sewage disposal had been approved by the State Commissioner of Health. It should be understood that the Commissioner of Health had originally approved of the site selected by the Site Commission and subsequently approved of the plans and specifications for sewage disposal. A minor alteration, for the betterment of all concerned, caused the Commissioner of Health to withhold his approval of the last set of plans submitted, although admittedly superior to those which he had previously approved.

The plans and specifications for sewage disposal and water supply were approved by this Board on April 2nd, 1913. On May 7th we received notification from the Acting State Architect that the Health Department refused to approve the sewage disposal and water supply plans.

In June, the newly appointed Commission on Sites, Grounds and Buildings honored the Board by their presence.

A thorough test has been made of the possibility of installing an incinerator plant, so as to overcome the objections that had been made, and it has been ascertained that complete destruction of human excreta can be accomplished at an expenditure of less than one cent per person per day, thus effectually preventing any contamination of the water supply of the City of New York.

The question of the water supply in New York City being affected is not a serious one. The institution, being located two miles from the water supply, with a most up-to-date sewage disposal system, could hardly be a serious menace when other institutions, within a short distance from us, are directly on the Croton water supply, discharging into running streams which supply the reservoirs.

If the city of New York wishes to acquire the greater part of Westchester county and retain it for small farms, hotels, boarding houses, and such, without proper supervision and without proper sewage disposal systems, it should have started long before the State had invested the large amount of money that is now represented in the institutions which are throughout this area.

It would be the last thought of any member of the Board, many of whom are residents of New York City, to do anything that would in the least way endanger the citizens of New York City, and having received the best advice and the authorization of both the Health Department of New York City and the Health Commissioner for the State, we find our progress constantly impeded with this reason of contamination, the only one, apparently, which is given as an excuse.

The first permanent step in the development of the school was made on the 15th day of November, 1912, when the services of Mr. and Mrs. Thomas Murphy were obtained as Supervisor of colony farms and House Matron respectively. They were installed in

what is known as the Winterburn House. From the time Mr. Murphy took charge, a steady development and improvement of land, orchards and buildings has taken place. A large amount of plowing was done during the months of October, November and December. Forty-five acres of land were seeded with rye. During the winter, the orchards in the vicinity of the Winterburn Farm were pruned and put in condition for future development.

Through the State Agricultural Department, the Training School acquired a herd of thoroughbred registered Holstein cattle, twenty-six in number, which had reacted to the tuberculin test, and the process of developing an immune herd from the infected one was begun. Thirteen strong and vigorous calves that have never suckled their dams now form the nucleus of a future thoroughbred herd.

Two thoroughbred Berkshire brood sows were secured; one by purchase, the other as a gift from Mr. John Henry Hammond of Delwood Farm, Mt. Kisco. We have successfully raised eight fine pigs.

Needed tools and farm implements have gradually been purchased, giving the school a moderate equipment at present. Among these tools may be mentioned a corn planter, reaper and binder; a corn harvester; and a potato sprayer.

Twenty-three acres were seeded with oats, thirty with corn, ten with buckwheat, five with potatoes, and one with beans. Five acres were seeded with alfalfa on the 25th day of August and at present shows a very promising stand. We have harvested 767 bushels of rye and 432 bushels of oats.

The fruit crop during the year has been fairly abundant. About 250 baskets of peaches were harvested and fifty baskets of pears.

One thousand six hundred and seventy gallons of cider were made from last year's apple crop, besides the sale of about twenty barrels of selected apples. Twenty-one barrels of fall apples have already been disposed of this present year.

The north side of the farm, joining the new improved highway, has been cleared of stone fences and a tract of seventy-five acres is now available for effective, economical farming operations.

A well has been bored at the Winterburn House to produce a suitable supply of water for the household and dairy operations

at that place. The well is now down 382 feet, and a sufficient supply of water has been acquired for our purposes.

A dairy outfit has been installed in a building which is being repaired, and which, when completed, will be entirely modern and sanitary.

The highway leading from the Main road between Yorktown Heights and Peekskill, through the property of the Training School, has been reconstructed and macadamized in a most thorough manner.

In July, the bill of William A. Delano, Special Architect, for \$4,500, was audited. Mr. Delano, who had been designated by Governor Dix as a special architect for the Training School, undertook to design the buildings and cottages as specified hereafter for this sum. In September the State Architect and the Fiscal Supervisor withdrew the approval of payment of Mr. Delano. Up to the present, Mr. Delano has not been paid.

The Managers have approved plans for a standard cottage, storehouse and bakery building, laundry, power house, and coal pockets.

The Board is continually hampered by impediments, either from the State Architect's Office or the Fiscal Supervisor's Office. It has been utterly impossible for the Managers to make any progress in the matter of construction. We have exerted every power to accomplish the ends as desired by the Legislature — to fulfill the work entrusted to us, but up to the present have been prevented from any possible accomplishment of the end in view.

The importance of completing this institution can hardly be appreciated by anyone who is not familiar with the condition of the poor boys who are being condemned to future criminal lives by the environment in which they are thrown at some of the institutions that are now provided for their care. It is not intended by this Board to condemn or criticize the existing institutions for we sincerely feel and know the necessity for severe and rigorous discipline on a certain percentage of boys who seem to develop in the City of New York. On the other hand, among these boys are many who can be saved with great economy to the future. At present and for some time past these institutions have all been crying for expansion or relief, as they are overcrowded.

The State has a very serious charge in the protection of these boys from a future penal life, to say nothing of the economical side in keeping these boys from becoming future public charges. The members of the Board of the New York State Training School for Boys are particularly well chosen for the work that the Legislature has given them, all having made a study of the reformation of juvenile delinquents and the existing institutions.

We beg the Legislature to indicate some policy by which we shall be permitted to proceed with the work of construction and to attain the end that is so desirable from every point of view.

Very respectfully submitted,

WM. B. OSGOOD FIELD,

President of the Board.

**Report of the Treasurer of the New York State Training School
for Boys for the Year Ending September 30, 1913.**

MAINTENANCE ACCOUNT

Receipts

Maintenance appropriation	\$18,000 00	
Cash on hand October 1, 1912.....	00	
Miscellaneous	218 17	
	<hr/>	\$18,218 17

Expenditures

Salaries of officers and employees..	\$9,822 39
Expenses of Managers, etc.....	819 35

Provisions:

Breadstuffs	\$75 90
Beverages	32 44
Butter	29 45
Cheese	10 95
Eggs	18 35
Fish	19 90
Beef	208 98
Lamb ..	23 84
Pork ..	129 86
Veal ..	4 48
Sugar, syrups, etc...	56 94
Vegetables canned ..	288 65
Vegetables dried	13 28
Vegetables fresh	2 25
Fruits canned	11 20
Fruits dried	13 90
Fruits fresh	6 54

Spices	\$3 04
Miscellaneous	81 16

 \$771 11

Household stores:

China and earthen- ware	\$44 48
Cutlery	18 80
Prison made goods..	728 93
Ready made — not prison	78 02
Clothes made — not prison	129 16
Agate and enamel ware	26 46
Glassware	20 51
Kitchen utensils	232 14
Soaps — cleaners . . .	22 17
Laundry supplies . . .	31 27
Miscellaneous	160 98

 1,492 92

Fuel and light:

Fuel	\$233 16
Light	44 72

 277 88

Shop, farm and garden:

Food for horses	\$169 30
Food for cows	8 86
Food for poultry	50
Seeds and plants	393 40
Fertilizers	12 00
Implements — prison made	3 00
Implements — not prison made	1,027 21
Insecticides and medi- cines	157 39
Stock	148 59

Harness	\$64 15	
Miscellaneous	429 23	
Seeds for garden.	7 73	
	<hr/>	\$2,421 36
Ordinary repairs:		
Household stores re-		
pairs	\$3 81	
Farm implement re-		
pairs	18 43	
Miscellaneous repairs.	372 69	
	<hr/>	394 93
Miscellaneous:		
Stationery	\$74 52	
Postage	75 58	
General items	1,664 50	
Contingent	80	
	<hr/>	1,815 45
Total cost of maintenance.		17,815 39
Miscellaneous receipts remitted to		
State Treasurer		218 17
	<hr/>	
Total expenditures		18,033 56
	<hr/>	
Cash on hand October 1, 1913.		\$184 61

SPECIAL FUND ACCOUNT

Total receipts from special appro-		
priations	\$32,155 23	
Receipts from sale of fence posts.	280 00	
	<hr/>	32,435 23
	<hr/>	

EXPENDITURES

Highway through site II-547-12.	\$16,672 17
Water supply system JJ-547-12.	1,432 93
Roads and grading LL-547-12.	1,670 80
Repairs to existing buildings MM-	
547-12	365 31

Expert assistance NN-547-12.....	\$360 09
Repairs to buildings and equipment D-821-11	6,977 24
Farm labor and expenses E-821-11.	1,145 53
Compensation of employees F-821-11	3,205 49
Expense board of managers G-821-11	321 67
Bakery and storeroom equipment B-790-13	4 00
Receipts from sale of fence posts sent State Treasurer	280 00
<hr/>	
Total expenditures	\$32,435 23

Respectfully submitted,

T. PEARSALL FIELD,

Treasurer.

1913

THE THIRTEENTH ANNUAL REPORT

OF THE

NEW YORK STATE HOSPITAL

FOR THE

TREATMENT OF

Incipient Pulmonary Tuberculosis

RAY BROOK, N. Y.

For the Year Ending December 31, 1913

TRANSMITTED TO THE LEGISLATURE FEBRUARY 9, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914



MAIN BUILDING.

STATE OF NEW YORK

No. 25.

IN SENATE

FEBRUARY 9, 1914.

Thirteenth Annual Report of the New York State Hospital for Incipient Tuberculosis, Ray Brook, N. Y.

To the Legislature of the State of New York:

The Trustees of the New York State Hospital for the Treatment of Incipient Pulmonary Tuberculosis at Ray Brook present herewith their Thirteenth Annual Report.

During the past year the Board has lost the membership of its President, Mr. Martin E. McClary, who resigned in July. Mr. McClary has been a member of this Board for ten years and has been its President since 1907. The Board records its sense of loss of his active interest and inspiring personality and the active social interest that he maintained always in the purpose and inspiration of the hospital.

In July, also, the Board lost the membership of Mr. John R. Shillady, who was at that time appointed Secretary of the newly created Industrial Board of the State Department of Labor. Mr. Shillady's service, though short, was always active and added breadth to the plans and ideals of the work.

Of the 830 applications for treatment, 493 were admitted. What became of the other applicants is detailed in the Report of the Superintendent.

The statistical results of treatment do not vary greatly from year to year, but the rough statement that about three-quarters of the cases have their trouble arrested continues to hold good. The fact that a considerable percentage of these arrested cases have relapses when they return to their previous residence or occupation has led the Board to a consideration of a concerted method with the local authorities to keep the patients under observation for a longer time after they leave the Institution.

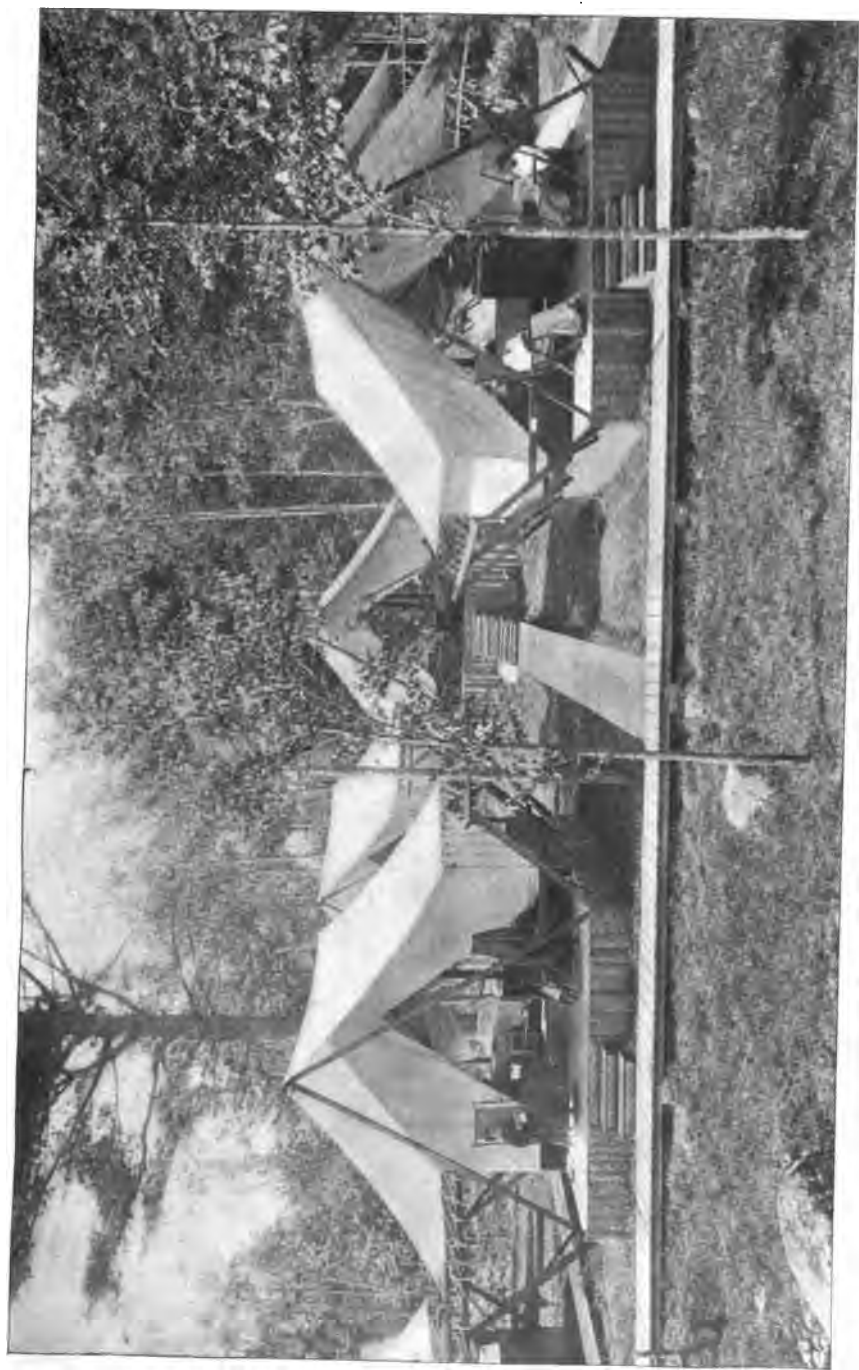
While this is possible in the more populous portion of the State it is not always practical in a large number of instances. It is believed that if the method of living that has been taught the patients in the Institution is continued when they return to their homes, a safeguard would be established to protect them, and some local control to this end seems necessary to keep up the morale of the arrested cases. The local dispensaries with their trained visiting nurses are excellent agencies directed to this end.

The weekly cost per capita maintenance in the past year has been \$9.27. This has some years been exceeded and other years lessened, but the lower cost of previous years with increased cost of living cannot hope to be paralleled.

It is believed that the work that has been done by trained laboratory assistants during the summer months should be continued. A population of 300 patients under control affords an opportunity for the study of some aspects of tuberculosis that it seems the State might well encourage in an effort to contribute something toward the solution of the many problems that arise in the study of tuberculosis.

The estimate for maintenance, it will be noted, is based upon an inmate population of 308, and calls for an appropriation of \$154,000. The special appropriations that are sought, for the most part, have been asked for before and the arguments heretofore presented continue to hold good. If the property is to be adequately protected from fire, the amount required for the equipment of the Institution with a satisfactory protection system should be appropriated.

The storage of supplies has never been provided for, and, with the increased population, comes to present a more and more urgent need.



VIEW IN WOMEN'S TENT CAMP.

The Board would call attention again to the lack of entertainment due to the absence of any place for that purpose. The isolation of the Institution makes it necessary that more attention be given to this subject than might arise in a more populous centre. Homesickness and a feeling of isolation are marked obstacles to the satisfactory cure of patients.

Respectfully submitted,

CHARLES GIBSON,
DAVID MOREY,
JOHN McCROSKERY,
JOHN H. HUDDLESTON,
CHAS. STOVER.

REPORT OF THE SUPERINTENDENT.

I respectfully submit the Annual Report of the affairs of the hospital for the year ending December 31, 1913, the thirteenth year of organization, ending a nine and a half year period since the reception of the first patient.

MEDICAL WORK OF THE YEAR.

The hospital has received 830 applications for treatment during the year. This is 79 more than the previous year and is worthy of mention, in that the city of Buffalo has opened a large sanatorium for the care of its own patients, and several other municipalities and counties have opened smaller sanatoria. The result has not been a falling off in the number of applications for Ray Brook.

Of the 830 applications, 727 have been examined, 482 accepted, 245 rejected, and 82 failed to report for medical examination when requested. Twenty-one accepted cases failed to report. Those who were not examined for various reasons number 82, and information has been obtained with the following results: Eleven decided to enter other hospitals and sanatoria, 8 withdrew their applications; 5 died in the course of decision, within the ten day period occupied after application and medical examination; 7 went to health resorts of their own selection; 2 were acutely ill; 7 could not be located by the poor officer; no reply from the poor officer could be obtained in 10 instances, 6 were not examined because under age; 1 on account of surgical operation; 1 declined to accept opinion of medical examiner; 1 married and changed plans; 2 refused to be examined and 1 was rejected by the local department as alcoholic.



BIRDSEYE VIEW OF WOMEN'S TENT CAMP.

Of the 21 who did not report after acceptance, in 2 cases the application was later withdrawn by the local applying department, reason not stated; 1 withdrawn on account of non-citizenship; 12 did not report for treatment (no reason could be obtained); 1 acutely ill after acceptance; 1 located herself in satisfactory country place; 1 returned to work immediately after acceptance and did not report for treatment; 1 entered a local hospital on account of acute condition; 1 went to place of own selection and 1 changed plans.

A total of 493 patients were admitted. Thirty-seven applications of the previous year were acted upon and examined in this year. There is at the present time no waiting list.

The discharged patients for the year are 431, of whom 372 remained longer than three months and are reported upon statistically in Table I.

TABLE I.

COMPARATIVE TABLE OF RESULTS IN ALL CASES REMAINING IN THE HOSPITAL LONGER THAN THREE MONTHS. AVERAGE LENGTH OF STAY 8.01 MONTHS.

	Incipient, 57.25 %	Moderately advanced, 33.34 %	Advanced, 8.33 %	Nontuber- culous, 1.08 %	Total,
Apparent recovery.....	154 = 72.3 %	12 = 9.68 %	.....	.....	166 = 44.62 %
Arrested.....	34 = 15.96 %	56 = 45.16 %	8 = 25.81 %	.....	98 = 26.34 %
Improved.....	12 = 5.63 %	28 = 22.58 %	10 = 32.25 %	.....	50 = 13.45 %
Unimproved.....	13 = 6.11 %	23 = 18.55 %	9 = 29.04 %	.....	45 = 12.09 %
Died.....	.....	5 = 4.03 %	4 = 12.90 %	.....	9 = 2.42 %
No T B.....	.....	.....	.....	4	4 = 1.08 %
Total.....	213	124	31	4	372

The statistics parallel approximately those of previous years. Favorable prognosis depends relatively upon the stage of the disease. The percentage of moderately advanced and advanced cases continues about the same.

The cases not considered medically who remained less than three months are reported upon in Table II.

TABLE II.

COMPARATIVE RESULTS IN ALL CASES REMAINING IN THE
HOSPITAL LESS THAN THREE MONTHS. AVERAGE LENGTH OF
STAY 2.43 MONTHS.

	Incipient.	Moderately advanced.	Advanced.	No T B	Total.
Apparent recovery.....					
Arrested.....	10	1			11
Improved.....	14	5	1		20
Unimproved.....	9	8	5		22
Died.....		1	1		2
No T B.....				4	4
Total.....	33	15	7	4	59

This table includes a report upon the cases admitted who did not remain sufficiently long to be classified in the results. Most of these patients returned home on account of family or work conditions. A few were discharged as progressive and not suitable cases; and the occasional disciplinary discharge must be mentioned.

TABLE III.
NUTRITIONAL CHANGE.

Discharged.	372 reported on in Table I.
Number who gained in weight..... 331	Number who gained in weight..... 297
Average gain, pounds..... 11.4	Average gain, pounds..... 12.10
Number who lost weight..... 45	Number who lost weight..... 41
Average loss, pounds..... 5.57	Average loss, pounds..... 5.31
No change in weight..... 55	No change in weight..... 34

This table is inserted to illustrate nutritional change under treatment.

TABLE IV.
AGES OF PATIENTS UNDER TREATMENT.

5 to 10..... 1	25 to 30..... 93	45 to 50..... 9
10 to 15..... 5	30 to 35..... 43	50 to 65..... 6
15 to 20..... 100	35 to 40..... 25	
20 to 25..... 127	40 to 45..... 22	



MEN'S TENT CAMP.

As a rule the hospital does not receive children under 16 years of age. It is against the rules of the State Board of Charities to place children in the same wards with adults. The wisdom of this rule is indisputable. An occasional child is admitted, provided it is under the immediate guardianship of a person of the same sex and the same family who is under treatment at the same time. The table illustrates the characteristic age period of the disease.

TABLE V.
OCCUPATIONS.

Attendant.....	1	Engineer.....	2	Packer.....	1
Baker.....	3	Engineer, stationary.....	1	Paper hanger.....	1
Barber.....	2	Envelope maker.....	2	Physician.....	1
Barrel maker.....	1	Factory employee.....	27	Plumber.....	2
Bartender.....	5	Farmer.....	6	Peddler.....	1
Blacksmith.....	1	Feathersorter.....	1	Pocketbookmaker.....	2
Boilermaker.....	1	Fireman, locomotive.....	1	Policeman.....	2
Bookkeeper.....	12	Fireman, city.....	2	Postal clerk.....	1
Bricklayer.....	1	Florist.....	1	Pressor.....	2
Butcher.....	3	Fruit dealer.....	1	Printer.....	3
Canvasser.....	2	Gardener.....	1	Railroad employee.....	2
Carpenter.....	2	Gasfitter.....	1	Real estate agent.....	1
Cash girl.....	1	Houseworkers.....	77	Sailor.....	1
Cement worker.....	1	Inspector, sanitary.....	1	Salesman.....	9
Chauffeur.....	6	Insurance agent.....	2	Saleswoman.....	5
Cigarmaker.....	1	Iron molder.....	1	Seamstress.....	7
Cigarbox maker.....	1	Laborers.....	9	Shoemaker.....	2
Clerks.....	36	Laundress.....	2	Silver worker.....	2
Drug clerks.....	2	Lens polisher.....	1	Stenographer.....	9
Hotel clerk.....	1	Machinists.....	11	Stone mason.....	1
Clerk, shipping.....	1	Manicurist.....	1	Stone cutter.....	3
Coal handler.....	1	Messenger.....	3	Storekeeper.....	1
Collar worker.....	2	Mail hand.....	2	Student.....	28
Conductors.....	2	Milliner.....	5	Tailors.....	3
Contractor.....	4	Molders.....	2	Teachers.....	6
Cook.....	1	Music teacher.....	1	Telegraph operator.....	2
Cutter, clothing.....	7	Motorman.....	2	Telephone operator.....	7
Cutter, glove.....	2	Newsboy.....	1	Timekeeper.....	1
Dietitian.....	1	Newsdealer.....	1	Theatrical man.....	1
Domestic.....	6	Nursemaid.....	1	Tinsmith.....	1
Dressmaker.....	9	Nurse, practical.....	2	Usher.....	1
Draughtsman.....	3	Nurse, trained.....	5	Weaver.....	2
Driver.....	3	Office boy.....	4	Waiter.....	1
Electrician.....	3	Piano maker.....	1	Waitress.....	3
		Painter.....	4		

The table of occupations is continued as in former years. The classifications of occupations is admittedly unsatisfactory and two attempts are at present under way to correct this defect. The National Association for Labor Legislation has been working for a number of years on a satisfactory classification of occupations. The original list of occupations, 3,000 or 4,000, has been gradually condensed and combined until the list is now limited to between 200 and 300. The final approved list is not yet at hand.

The Massachusetts General Hospital, under the direction of Dr. Edsall, has prepared a new occupational list for the dispensary

service of that hospital. This list has not yet left the printer's hands. These are the two most noteworthy attempts to classify occupations with a minimum of guesswork and to make them more valuable statistically.

An occupational chart has been prepared by us and has been thoroughly criticised and is complete with the exception of an occupational list. It has been deemed expedient not to institute this additional history form until the classification of a reasonably standard occupational list has been decided upon.

TABLE VI.

RESIDENCE OF PATIENTS DISCHARGED DURING THE YEAR BY COUNTIES.

Albany.....	33	Genesee.....	1	Otsego.....	1
Chautauqua.....	9	Jefferson.....	6	Rensselaer.....	23
Chemung.....	4	Livingston.....	1	St. Lawrence.....	1
Cattaraugus.....	2	Monroe.....	47	Schenectady.....	2
Clinton.....	4	Montgomery.....	6	Suffolk.....	1
Columbia.....	5	Niagara.....	13	Tompkins.....	2
Dutchess.....	5	New York.....	138	Warren.....	1
Erie.....	46	Oneida.....	16	Washington.....	2
Franklin.....	2	Onondaga.....	23	Westchester.....	6
Fulton.....	2	Orleans.....	6		

During the past year the city of Buffalo has opened a large sanatorium at Perrysburg to accommodate 150 patients. As a result of this, the number of patients discharged during the year from Erie county is 100 less than the previous year. The most notable increase in the admission of patients has been from New York City. In the small counties there has been a uniform increase in the admission rate. It is the usual experience that local county hospitals tend to cause a cessation of applications for Ray Brook for a period. Certain county officers refuse to apply for Ray Brook if the local county hospital or sanatorium has vacancies. These refusals are usually temporary and are adjusted as the work of control expands.

AVERAGE NUMBER OF PATIENTS FOR THE YEAR.

January.....	263.16	May.....	280.58	September.....	308.9
February.....	282	June.....	281.4	October.....	288.3
March.....	286.74	July.....	292.83	November.....	300.3
April.....	273.76	August.....	313.83	December.....	308.87

The completed hospital has a capacity of 308. For a period the census was operated in excess of the allotted bed capacity of



VIEW TAKEN FROM WEST PAVILION.

the hospital. This was found unsatisfactory and a few vacancies are maintained for disinfection and emergency purposes.

TREATMENT.

The essential treatment was not changed. It consists of regulated rest, exercise and diet, with life in the open air. The strongest emphasis has been placed on rest. The exercise ability has been used for the purpose of economy, to lessen the cost of maintenance wherever possible.

LABORATORY.

The laboratory was occupied during the summer months by Dr. Oswald Avery, Dr. Benjamin White and Dr. Harold W. Lyall of the Hoagland Laboratory. An endeavor was made to obtain some information by means of complement deviation in human tuberculosis. In addition to this an accurate Wasserman system was established, as a part of the laboratory service. The direction of the investigation extended beyond the time allotted to the work and will be continued and published in due course.

PROGRESS OF THE YEAR.

No large special funds were appropriated to correct the defects of the present hospital plant, but many minor changes and improvements were progressed under maintenance. The banks and fills about the water storage reservoir have been graded and sodded; the courts and yards have been cleared of debris and the usual interior repair work progressed under maintenance. The entire water section system of the hospital has been excellently painted, the infirmaries of the old east and west pavilions and the entire new MacDonald pavilion has been painted. The property of the institution is in good condition.

Medically a Committee on Coöperation has been established by the Board. This Committee has assembled facts bearing upon the relation of Ray Brook to the existing organizations working in tuberculosis. It has been the idea to bring about a closer relation between Ray Brook and the existing organizations working in tuberculosis, so that the selection of case medically would be better and

so that the endeavor of the patient could be more satisfactorily directed upon his return home, if he was in need of further assistance or advice. Quite effective organizations now exist in Buffalo, Rochester, Troy, Albany and New York City. The nucleus for effective organizations is present in many of the less populous centres. The opportunity for assistance should be offered to every patient, so that the patient may have the privilege of availing himself or herself of it, if it is necessary. The preliminary work of the committee has about been accomplished and the committee is ready to coöperate with such organizations as can effectively advance the welfare of the patient.

NEEDS OF THE HOSPITAL.

The essential needs of the hospital are listed in Appendix A and complete argument for them is attached. To the casual visitor, the most obvious need is an improvement of the roads and grading of the grounds. To the more intimately informed, the absence of a satisfactory system of fire protection is most impressing. The hospital property is now worth \$550,000 with no adequate protection for fire. All of the details for incipient fire have been attended to, but the need for a comprehensive fire protection is the single most important item. The financial statement is appended. The cost of maintenance is always of interest to those that finance the hospital and is of interest in comparison with the cost of similar service elsewhere. The present weekly cost is \$9.27. During the last year the hospital has been operated economically and effectively in spite of high prices. The most expensive item of the previous year, the heating and lighting department, has exhibited the wisdom of the expenditure in the correction of construction defect in that department and has been responsible in the lowering of the per capita cost \$1.71 per week. Nine dollars and twenty-seven cents probably represents the minimum weekly per capita cost. With the certain necessity for adding new departments to the hospital which will become fixed charges, the probable minimum cost will be about \$10 per week.

In conclusion, I wish to express my appreciation to the members of the clergy who have continued their visits to us through-



VIEW OF LOWER LOGGIA, SHOWING DETAIL IN CONSTRUCTION.

out the year; to the staff for their continued excellent service; to the friends of the hospital who have contributed to the entertainment of the patients; and to the Board of Trustees for their kindness in their direction of the policy of the hospital.

Respectfully submitted,

ALBERT H. GARVIN.

PURPOSE OF THE HOSPITAL.

The hospital was built for the treatment of incipient pulmonary tuberculosis, because it had been demonstrated that at least three-fourths of the cases in this class can be cured.

The definition of incipient tuberculosis is inserted on page 16. This definition is enlarged upon to state a little more clearly what cases are acceptable and what cases are to be positively excluded. The success in sanatorium treatment, in properly selected cases, is so remarkable that many physicians, not well acquainted with the limitations, flatter the sanatorium by thinking that it can do impossibilities, and send cases that are absolutely hopeless.

Early cases, suffering from incipient pulmonary tuberculosis, in three out of four instances become apparently cured; moderately advanced cases, those suffering from infiltration of one lobe or a little more, will become apparently recovered once in five to twenty cases. Advanced cases will become apparently recovered, according to the experience in this hospital, once in 176 times.

The rejection of an undesirable or an unsuitable patient is not an injustice. The hospital must restrict its endeavors to the purpose for which it was established, for the reason that it is not equipped in building or administrative staff to take care of bed or hospital cases, and also for the reason that it has been found by experience to be unsatisfactory to mingle hopeless cases with patients who have an opportunity to recover.

It is not to be considered necessarily that the rejection of a case by the hospital means that the hospital authorities consider it incurable, although many patients, particularly those with health resort experience, labor under the delusion that the acceptance for admission is a guarantee of recovery, and that rejection means that the patient is a hopeless "chronic." As many patients are sent suffering from symptoms which indicate extensive disease, or have suffered from recent complications which require sus-

pension of judgment, a few definite symptoms are mentioned. It is not to be considered that the symptoms considered unfavorable mean invariably that the patient is unfavorable, but that the probability for cure with the presence of these unfavorable symptoms, or the incapacity that they necessitate, is such that the patient requires hospital rather than sanatorium treatment. It is taken for granted that patients in the sanatorium are able to be up and about, and at least come to the dining room for their meals, if they are on no other exercise. If the patient becomes ill in the sanatorium, or if his inflammation progresses while under treatment, he is placed in bed and properly treated, but no patient can be deliberately received as a bed patient.

CASES NOT ACCEPTED.

No bed-ridden patients.

No patient confined to his room, or who has recently recovered from an acute infection and has convalesced for a shorter period than two weeks.

No case of acute tuberculosis with high fever, or with temperature of about 100 degrees, which persists after two weeks of absolute rest.

No case with tuberculous complications; laryngeal, ischio-rectal or bone.

No patient with bubbling rales, indicating the breaking down of lung tissue, especially if occupying the extent of one lobe.

No cases with clinical signs of cavity.

No cases with obstinate dyspepsia or malassimilation. If a patient cannot eat, he cannot get well.

No patient who is expectorating more than one-half ounce of infectious sputum.

No patient who is manifesting intense toxemia, with great weakness — so great, for instance, as inability to get up one flight of stairs.

No patient who has lost weight rapidly.

No case with obvious dyspnoea while at rest.

No case that is suffering from numerous or large hemorrhages.

No case, in other words, that would fit the definition of moderately advanced tuberculosis, as stated on page 16.

CASES THAT ARE ACCEPTED.

A suitable case should conform to the definition of incipient tuberculosis as stated below.

Patients suffering from early and slight hemorrhages are usually favorable cases, but if the hemorrhage is profuse or repeated, are not so favorable. The smaller the size of the tuberculous deposit, the more favorable the case. The presence of one deposit only, preferably at an apex or small part of one lobe, is most favorable. The most reliable physical procedure to demonstrate the disease, if it is demonstrable by physical signs, is *Auscultated Cough*. One skilled in auscultation can locate the disease months before bacilli appear in the sputum.

No examiner is infallible. Errors in diagnosis will occur when the observation is a single one. Occasional cases, which from estimable signs should do well, develop unfavorable complications and go from bad to worse; an occasional unfavorable case improves remarkably. It too frequently happens, however, that cases are sent to sanatoria with a diagnosis of incipient tuberculosis, who have huge cavities in the chest, or have to be placed in bed immediately after arrival. Patients who are unable to walk up one flight of stairs or who are expectorating 100 to 200 cubic centimeters of infectious sputum, are not proper cases for sanatorium treatment. They need hospital treatment. Observation would indicate that these patients are not suffering from slight infiltration, but rather from large involvement, with extensive ulceration. Diagnostic ability is improving and this hospital obtains its largest number of suitable cases for treatment from those organizations which devote their entire attention to tuberculosis.

DEFINITION OF TERMS.

Incipient:

Slight initial lesion in the form of infiltration limited to the apex or small part of one lobe.

No tuberculous complications, slight or no constitutional symptoms (particularly including gastric or intestinal disturbance, or rapid loss of weight).

Slight or no elevation of temperature or acceleration of pulse at any time during the twenty-four hours, especially after rest.

Tubercle bacilli may be present or absent.

Moderately advanced:

No marked impairment of function, either local or constitutional.



VIEW OF EAST SOLARIUM.

Localized consolidation, moderate in extent, with little or no evidence of destruction of tissue.

No disseminated fibroid deposits.

No serious complications.

Far advanced:

Marked impairment of function, local or constitutional.

Localized consolidation intense.

Disseminated areas of softening.

Serious complications.

Acute miliary tuberculosis.

CLASSIFICATION OF RESULTS.

Unimproved:

All essential symptoms and signs unabated or increased.

Improved:

Constitutional symptoms lessened or entirely absent.

Physical signs improved or unchanged.

Cough and expectoration with bacilli usually present.

Arrested:

Absence of all constitutional symptoms.

Expectoration and bacilli may or may not be present.

Physical signs stationary or retrogressive.

The foregoing conditions to have existed for at least two months.

Apparently cured:

All constitutional symptoms and expectoration with bacilli absent for a period of three months.

The physical signs to be those of a healed lesion.

Cured:

All constitutional symptoms and expectoration with bacilli absent for a period of two years under ordinary conditions of life.

The National Society reported at the Annual Meeting in May, 1913, the following classification:

DEFINITION OF TERMS.

Incipient:

Slight or no constitutional symptoms (including particularly gastric or intestinal disturbance, or rapid loss of weight); slight or no elevation of temperature or acceleration of pulse at any time during the twenty-four hours. Expectoration usually small in amount or absent. Tubercle bacilli may be present or absent.

Slight infiltration limited to the apex of one or both lungs or a small part of one lobe.

No tuberculous complications.

Moderately advanced:

No marked impairment of function, either local or constitutional.

Marked infiltration more extensive than under incipient, with little or no evidence of cavity formation.

No serious tuberculous complications.

Far advanced:

- Marked impairment of function, local and constitutional.
- Extensive localized infiltration or consolidation in one or more lobes.
- Or disseminated areas of cavity formation.
- Or serious tuberculous complications.

Acute miliary tuberculosis.

CLASSIFICATION OF RESULTS.

Apparently cured:

All constitutional symptoms and expectoration with bacilli absent for a period of two years under ordinary conditions of life.

Arrested:

All constitutional symptoms and expectoration with bacilli absent for a period of six months; the physical signs to be those of a healed lesion.

Apparently arrested:

All constitutional symptoms and expectoration with bacilli absent for a period of three months; the physical signs to be those of a healed lesion.

Quiescent:

Absence of all constitutional symptoms; expectoration and bacilli may or may not be present; physical signs stationary or retrogressive; the foregoing conditions to have existed for at least two months.

Improved:

Constitutional symptoms lessened or entirely absent; physical signs improved or unchanged; cough and expectoration with bacilli usually present.

Unimproved:

All essential symptoms and signs unabated or increased.

Died.

The report this year is based upon the classification of the Nomenclature Committee of 1904, as it was thought best not to interrupt or confuse the year with two classifications.

HOW TO ENTER THE HOSPITAL.

If a person is advised by a physician that he has tuberculosis, and he wishes to enter the hospital, he must apply to the poor officer or commissioner of charities of the county, city or town in New York State of which he is a legal resident. If, after investigation, the officer finds that the applicant is a suitable case for his assistance, he will apply in the applicant's name for admission. (Commissioners of Charities and poor officers have special blanks for this purpose, chapter 376, Laws of 1902.)

After receiving an application, the superintendent of the hospital requests the poor officer making the application, to have the applicant examined by the nearest medical examiner of the hospital. Upon receipt at the hospital of the medical report of the

examiner, the applicant is immediately informed through the applying officer as to whether his application is accepted or rejected.

Medical fee of three (\$3.00) dollars is paid by the poor officer making the application. If the applicant is examined without the order of the poor officer, he is responsible for the fee.

The acceptance or rejection of the case depends entirely upon the results of the medical examination. No decision can be given to the patient until the report of the examination has been received at the hospital.

LOCATION OF THE HOSPITAL.

The hospital is located at Ray Brook, Essex county, N. Y. It is about three and one-half miles from Saranac Lake, and five miles from Lake Placid, and includes 516 acres of land adjoining the State Forest Preserve. The altitude is 1,635 feet. The buildings face south and are located to secure protection from the wind. An abundant water supply is obtained from Ray Brook by gravity system. The soil is sandy, which insures dryness and efficient drainage. The view from the veranda is one of the finest in the Adirondack region.

The hospital can be reached by the Adirondack division of the New York Central and Hudson River Railroad, or by the Delaware and Hudson Railroad.

DIETARY AT THE HOSPITAL.

SUNDAY.

- Breakfast.* Yellow meal, boiled eggs, baked potatoes, coffee cake, coffee, cocoa and milk.
- Dinner.* Chicken broth with rice, roast chicken, mashed potatoes, boiled onions, spinach, layer cake, caramel ice cream, milk and tea.
- Supper.* Cold meat, creamed potatoes, pepper relish, pound cake, pineapple, milk and tea.
- Lunches.* Milk A. M. and P. M.

MONDAY.

- Breakfast.* Oranges, hominy, fried bacon, baked potatoes, water rolls, coffee, cocoa and milk.
- Dinner.* Beef broth, roast lamb, browned gravy, mint sauce, boiled potatoes, stewed peas, creamed carrots, creamed tapioca pudding, milk and tea.
- Supper.* Hamburg steak, boiled potatoes, crabapple jelly, plain cake, cherries, milk and tea.
- Lunches.* Milk A. M. and P. M.

TUESDAY.

- Breakfast.* Oatmeal, lamb chops, baked potatoes, popovers, coffee, cocoa and milk.
- Dinner.* Vegetable soup, English boiled dinner, boiled potatoes, chocolate pie with whipped cream, milk and tea.
- Supper.* Creamed chipped beef, hashed brown potatoes, chow chow, stewed prunes, sugar cookies, milk and tea.
- Lunches.* Milk A. M. and P. M.

WEDNESDAY.

- Breakfast.* White meal, fried bacon, baked potatoes, milk rolls, coffee, cocoa and milk.
- Dinner.* Celery soup, roast beef, boiled potatoes, red kidney beans, stewed tomatoes, cottage pudding with custard sauce, milk and tea.
- Supper.* Corned beef hash, fried potatoes, horseradish, plain cake, pears, milk and tea.
- Lunches.* Milk A. M. and P. M.

THURSDAY.

- Breakfast.* Hominy, fried bacon, baked potatoes, tea biscuits, coffee, cocoa and milk.
- Dinner.* Cream of tomato soup, roast veal, browned potatoes, macaroni au gratin, string beans, mince pie, tea and milk.

Supper. Cold meat, creamed potatoes, beef stew, sugar cookies, plums, milk and tea.

Lunches. Milk A. M. and P. M.

FRIDAY.

Breakfast. Oatmeal, boiled eggs, baked potatoes, corn bread, coffee, cocoa and milk.

Dinner. Oyster stew, boiled beef, creamed salmon, boiled potatoes, stewed corn, cold slaw, pineapple jelly with cream, milk and tea.

Supper. Fried fish, cold meat, escalloped potatoes, cucumber pickles, spice cake, peaches, milk and tea.

Lunches. Milk A. M. and P. M.

SATURDAY.

Breakfast. Oranges, farina, fried steak, baked potatoes, bread rolls, cocoa, coffee and milk.

Dinner. Celery soup, roast beef, browned potatoes, stewed peas, sliced beets, cornstarch pudding with cream, milk and tea.

Supper. Creamed dried beef, fried potatoes, graham bread, malaga grapes, milk and tea.

Lunches. Milk A. M. and P. M.

APPENDIX A.

FINANCIAL NEEDS OF THE HOSPITAL.

Maintenance \$154, 000 00

Maintenance is figured on a basis of \$500 per bed per annum. A census of 308 is anticipated for the year 1913-1914. Inmate population 1912-1913, 278.72. Per capita cost for the last fiscal year, \$9.27. Total cost of maintenance by items:

	1912-13	1913-14 Est.
Salaries of officers and employees	\$41,126 42	\$45,000 00
Expenses of managers and employees	948 03	1,500 00
Provisions	52,265 00	60,000 00
Household stores	5,192 18	7,000 00
Clothing	816 80	1,200 00
Fuel and light	15,791 96	17,000 00
Hospital and medical.....	6,085 72	7,000 00
Shop, farm and garden.....	3,031 32	5,000 00
Ordinary repairs	2,009 86	4,000 00
Transportation inmates	2,365 52	3,500 00
Miscellaneous	6,043 13	7,000 00
	\$136,575 94	\$158,200 00

Inmate population 1913-14, 308.

Repair and equipment..... 4, 000 00

The usual repair and equipment fund for the permanent building, estimated at less than 1% of the cost of construction.

Special appropriations, stated in the order of their importance:

1. For enlarging toilet sections, male and female wards and tiling floors 3, 500 00

The present toilet sections are extremely unsatisfactory, and it is desired to change the present floors, and to add one bath tub to each toilet section; to change the location of the fixtures so as to render their use a little more private than is at present provided, and at the same time, particularly, to make them more sanitary.

2. Fire protection \$20, 843 00

The present fire protection is inadequate, for the reason that it is not possible to develop sufficient pressure with our present gravity system. The two ways to obviate this are to install a pump system, or to install a gravity pressure system, which will obviate the necessity of a pump. The Board of Trustees is opposed to a pump system because of its possible failure to operate in emergency, while a gravity system is cheaper to maintain and is ready to operate on the instant. The gravity system has two possibilities, the installation of a standpipe adjacent to the present million-gallon reservoir or to install an 8 in. main paralleling the present 4 in. main with the building of a reservoir in the mountain. It is estimated that the cost of laying three miles of pipe 8 in. in diameter, or 15,843 ft., is \$15,843, a dam in the mountain giving a storage capacity of 300,000 gallons, together with the expense of cleaning the bed of the reservoir, will cost \$5,000. The Board is of the opinion that a large 8 in. supply pipe with a mountain dam will give the best gravity system. This requested money, together with the present balance under Fire Equipment Fund of \$4,473.53, will give an adequate ready-for-service fire apparatus.

3. Storehouse 10, 000 00

At the present time there is no single adequate place to receive the stores of the institution. A separate building immediately in the rear of the hospital should be built to properly receive and account for the stores of the hospital; or an addition to the rear wing of the hospital building should be made to centralize the stores. It is anticipated that \$10,000 will be sufficient for this purpose.

4. Clinical and research laboratory, per annum..... 7, 500 00

The establishment of a research laboratory at the hospital for diagnostic work has been advised at the rate of \$7,500 per annum for maintenance, and that such a fund be supplied in addition to the maintenance fund of the hospital, and that the laboratory be charged with all of the expenses directly connected with its maintenance and with the staff therein engaged. The present laboratory is occupied during the summer months and is financed at a minimum cost, so that it will not be too great a burden on the maintenance fund of hospital.

5. For grading about the new east and west wings and new employees' building 5,000 00

The grounds about the hospital need additional grading and top soiling, the making of lawns, walks, steps, installation of railings, etc. The landscape of the hospital should be maintained as near its natural beauty as possible, not alone for the reason that it is in the wilderness, but also for the economic reason that this type of featuring leads to the most economic maintenance. Professor Davis of the Department of Landscape Art of the New York State College of Agriculture, Cornell University, has kindly consented to advise the hospital at no *honorarium* except his personal expense, and to supply a man at the wage of a day laborer, to assist in the supervision of grading and featuring the out-of-doors of the hospital, should this fund become available.

6. Assembly hall \$20,000 00

In the original plans for building this hospital, the fourth floor of the administration building was planned for a large solarium; subsequently this space was divided into rooms for patients and employees, owing to the pressure of the moment. The rooms used for congregation purposes at the present time are 30 x 40 feet and are inadequate for the purposes of congregation and assembly. The need for an assembly room recurs. The State Board of Charities is opposed to the assemblage of people on the top of the building, and as an alternative, an independent assembly hall is requested.

7. Brick road 15,000 00

It has been recommended that the public highway passing through the hospital park be constructed of brick instead of macadam and that such a road in the end would be more sanitary and practically indestructible after completion.

SUMMARY.

Maintenance	\$154,000 00
Repair and equipment	4,000 00
Special appropriations:	
1. For enlarging toilet sections, male and female wards and tiling floors	3,500 00
2. Fire protection	20,843 00
3. Storehouse	20,000 00
4. Laboratory maintenance, per annum	7,500 00
5. For grading about the new east and west wings and new employees' building	5,000 00
6. Assembly hall	20,000 00
7. Brick road	15,000 00

APPENDIX B.

FINANCIAL STATEMENT.

October 1, 1912 to September 30, 1913.

1. Officers of the institution:

President of the Board of Trustees.....	MR. CHARLES H. GIBSON
Secretary of the Board of Trustees.....	CHARLES STOVER, M. D.
Treasurer	MR. WILLIAM MINSHULL
Superintendent	ALBERT H. GARVIN, M. D.

2. Valuation of the institution property:

Real estate:

Number of acres of land, 516; value.....	\$10,000 00
Value of buildings	490,617 71
Total real estate	<u>\$500,617 71</u>

Personal property	\$50,103 06
Farm, stock and implements.....	916 74
General supplies	8,179 14
Miscellaneous articles	7,067 95

Total personal property \$66,266 89

Total valuation \$566,884 60

3. Receipts and expenditures for the year ending September 30, 1913:

Cash on hand, October 1, 1912.....	\$918 65
Received from the State:	
Special appropriations	6,550 00
Deficiency appropriation	18,000 00
Unexpended appropriations of former years, special.....	22,327 49
General appropriations	127,076 67

Total \$174,872 81

Received from other sources:

From counties, towns and cities.....	\$69,961 08
From all other sources	159 32

Total \$70,120 40

Total receipts, including cash on hand, Oct. 1, 1912.. \$244,993 21

Ordinary expenditures:

For salaries of officers and wages and labor.....	\$41,124 42
For provisions	52,244 09
For household stores	5,192 18
For clothing	816 80
For fuel and light	15,791 96
For hospital and medical supplies.....	6,085 72
For transportation and traveling expenses.....	2,365 52
For shop, farm and garden supplies.....	3,931 32
For ordinary repairs	2,109 86
For expenses of trustees or managers.....	948 03
For remittance to State Treasurer.....	70,120 40
For all other ordinary expenses.....	4,167 63
Total	\$204,897 93

Extraordinary expenditures:

For buildings and improvements.....	\$14,087 29
For all other extraordinary expenditures (lapsed appropriations)	9 39
Total	\$14,096 68

Unexpended special appropriations.....	\$14,780 81
Unexpended general appropriations.....	8,050 00
Cash on hand	3,167 79
Total	\$244,998 21

Capacity of the institution	308
Average number of inmates.....	278.72
Average weekly cost of support, including the value of home and farm products consumed.....	\$9 31
Average weekly cost of support, excluding the value of home and farm products consumed.....	\$9 27

Assets, October 1, 1913:

Balance in cash	\$3,167 79
Due from counties, towns and cities.....	39,941 99
Unexpended appropriations	22,831 81
Total assets	\$65,941 59

STATE OF NEW YORK

THIRD ANNUAL REPORT

OF THE

TRUSTEES OF THE STATE INSTITUTE FOR
THE STUDY OF MALIGNANT DISEASE

TRANSMITTED TO THE LEGISLATURE FEBRUARY 11, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914

STATE OF NEW YORK

No. 26.

IN SENATE

FEBRUARY 11, 1914.

Third Annual Report of the Trustees of the State Institute for the Study of Malignant Disease, for the Year Ending October 1, 1913.

To the Legislature of the State of New York:

The trustees of the State Institute for the Study of Malignant Disease respectfully transmit herewith their report for the year 1913.

By far the most important event in the history of the Institute, since the gift of the Gratwick Laboratory, was the formal opening of the new hospital which took place November 1, 1913. The company gathered by invitation and through public notice of the same was so large that the formal dedicatory exercises were held in the University Building, the Institute itself having no sufficient auditorium for such purpose. The exercises were begun with a formal opening address by the president of the board, in which he briefly outlined the history of the Institute, from the time when, in 1898, it began its work within the limited confines which the University could set aside for it, through the construction and formal opening of the Gratwick Laboratory in 1902, to the present opening of the hospital of the Institute. The historical part of the address was followed by a brief outline of the nature and the value of the work which had already been accomplished.

Following this a short address was made by the Hon. Charles S. Fairchild, also a member of the board, in which he felicitously congratulated the people of the State upon the accomplishment of this great enterprise, happily comparing the enormous and inestimable benefit of such research work with the glamour and the purely money value which a commercial people attached, for instance, to a barge canal; in one case the expense is relatively trifling and the accruing benefit beyond computation, in the other it would almost appear that the expense is beyond estimate and the actual value by many considered to be questionable.

The most formal and elaborate address of the exercises was furnished by Prof. James Ewing of Cornell University, who delivered a scholarly and admirable paper upon the general value of research work. In this he alluded in complimentary terms to work already performed within this institution, and saw in its present equipment and possibilities unlimited amount of benefit which should accrue therefrom in the future. The address accompanies the report.

With the conclusion of Dr. Ewing's address the President of the Board of Trustees declared the new Hospital Department of the State Institute formally opened.

During the concluding weeks of the year 1913 there were very few admissions to the hospital, and time was spent in completing the equipment, training the nursing staff, and preparing everything in readiness for the active work of the ensuing year in both the hospital and dispensary departments.

Although it did not occur until after the conclusion of the year one exceedingly sad event must needs be recorded in this report. This was the death of Dr. Frederick C. Busch, who had for several years been deeply and actively interested in the work of the Laboratory and who, in 1912, resigned his position as Professor of Physiology in the University in order to devote his entire time and energy to this work. In preparation for it he spent a number of months abroad and returned to us in 1913 with such command of resources and familiarity with the best men and best methods in Europe that we hailed his accession as an asset of the very greatest value. Scarcely had he returned, however, before

he developed the malignant disease which rapidly led to his decline and to his death, which occurred January 3, 1914.

The trustees are glad to put on record their expressions of appreciation of his delightful and lovable character, his enthusiasm for work, his skill in intricate research work, his ability in making it practically available, and the general influence of his disposition in encouraging others in minute methods of study.

His loss, therefore, has been a very serious interruption in the projected work of the Institute, and no matter who may be selected as his successor it will require some time to train him to the same degree of proficiency for this special work.

Popular interest, approaching almost a degree of popular excitement, has obtained of late regarding the properties and the efficiency of radium in the treatment of just those diseases which come especially under observation in this Institute. This is perhaps hardly the place in which to enter upon discussion regarding its curative value. In fact it is exactly this value which the trustees feel it is our province to estimate and decide, and it is for this reason that it is of the greatest importance to procure enough of this most expensive substance with which to carry on accurate and reliable investigations. Small amounts, such as may be perhaps possessed by private individuals, are quite insufficient for this purpose. The State Institute should be, in our judgment, the possessor of at least one gram of the purest available preparation. At present prices this would probably cost at least one hundred thousand dollars. We therefore commend the desirability, the imperative demand, for this substance in this work, and urge upon the Legislature in the strongest possible terms the wisdom of enacting such legislation by the passage of a bill appropriating the above amount. In order to secure this within the next year it is most advisable that this appropriation be promptly made since radium is not to be easily had on demand, and considerable time must elapse after ordering it before it can be produced.

The United States Government is becoming active in the securement or protection of radium bearing ore properties and the price may be eventually determined by Governmental decision, but from every viewpoint it is wise and urgent that the appro-

priation be made in order that the sum may be most judiciously expended.

In this connection it is most pleasing to be able to say that Mrs. Ansley Wilcox of this city has already most generously offered to donate the sum of six thousand dollars with which we hope to procure the minute amount of fifty milligrams. Were others equally interested and generous it might be unnecessary to call upon the State for this purpose. We must not forget, however, that this is a State Institute to which the public have every right to look for authoritative and decisive stands regarding radium, and that until this is supplied the public have no opportunity of exercising this right.

The State Institute for the Study of Malignant Disease has for some time felt the need of a suburban biological experiment station and animal farm. Other institutions of this sort, like the Rockefeller Institute and the State Department of Health in Albany, have recently acquired properties for this purpose. The last Legislature appropriated ten thousand dollars for the purchase of an animal farm site for the State Department of Health, to remove the animal work from the city of Albany to the country, where it can be more properly executed. The maintenance of animals upon the property of the Institute in Buffalo, owing to the erection of the hospital now completed, has forced a similar situation upon this Institute. Instead of applying to the Legislature for an appropriation to buy property, with the public spirit already manifested by the friends of the Institute in Buffalo, a desirable property immediately adjacent to the village of Springville, Erie county, was located and *the necessary purchase price was subscribed by ten friends of the Institute*. This property was presented to the trustees for the purpose above defined and accepted at a trustees' meeting on July 1, 1913, under chapter 91, Laws of 1913, which permits the trustees *to receive gifts, legacies and bequests*.

The property is admirably suited to the purpose. It has a supply of nineteen never-failing springs, which give a flow of spring water on the property of approximately eighty cubic feet a minute, and with a fall sufficient to permit the installation of rams and the utilization of a great portion of the water by gravity.

For the equipment of this property for the purposes of the Institute are required an administration and quarters building, a biological laboratory, farm buildings, and road building, grading and fencing.

The State Institute for the Study of Malignant Disease is operated by a permanent staff of scientists. With the broad scope of the cancer and allied problems with which it is entrusted, it is frequently necessary to secure the co-operation of experts for limited periods of time, and this can be accomplished for a nominal consideration by following a plan already in operation by various departments of the United States Government. Qualified specialists working at the different universities are invited to spend the summer months working upon given problems, and as compensation for their work they are given their board and room and one dollar per day. The class of men who can be secured under these circumstances includes college professors and well-known scientists who are willing to undertake special lines of work which particularly interest them for the nominal consideration of board and lodging and a trifling addition. For this reason the administration building and quarters is planned to have housing capacity for about twelve to sixteen individuals. Preliminary plans and estimates by the State Architect for this building indicate that to accomplish the purposes of the trustees an expenditure of twenty-nine thousand five hundred dollars will be necessary. By the acquisition of these facilities the Institute will be able to secure the co-operation and services of scientists for a nominal consideration, which under other conditions would cost large sums of money. This building is the keynote of the scheme. It may be stated that at Woods Hole, Mass., the United States Bureau of Fisheries has a biological laboratory with living quarters of exactly this description. The Canadian Government has recently established a marine biological laboratory with living quarters of the same type.

Since 1907 the Institute has been engaged in a joint investigation into cancer in fish in conjunction with the United States Bureau of Fisheries. A monograph covering five years of joint work is now in the Government press. The results obtained by this investigation are very far reaching and of great economic

importance to the State of New York as well as the entire United States, and the results obtained are calculated to throw light upon the distribution of the important disease goiter and an allied condition, cancer of the thyroid gland. This monograph covers the preliminary portion of this work. The Institute has for two or three years attempted to carry out experiments with cancer in fish as part of this work, in the rooms of the laboratory in Buffalo. It is impossible to maintain fish during the summer months which are the most important months, because the temperature of Lake Erie water is too high. Buying water by meter is also ruinously expensive. For this reason for three consecutive summers, it was necessary to transfer several members of the staff of the Institute to a Government hatchery in Maine, where the work incorporated in this monograph was largely done. The expenses entailed by so doing and the difficulties under which the work was done because of distance have rendered it absolutely essential that the Institute should have a properly equipped laboratory building with ample accommodations for fish, at its disposal. By the acquisition of the property at Springville, with ample spring water supply, a laboratory building, plans for which have been drawn by the State Architect, can be erected at an estimated cost of thirteen thousand dollars. The building will be two stories, hollow tile construction with plaster, and will measure 61 feet x 38 feet. In the basement will be accommodations for thirty-two concrete fish troughs and floor space for special apparatus, permitting the maintenance of fish in sufficient numbers to carry forward the important work of determining how to combat cancer of the thyroid gland in fish, and its transmission to man. This is a disease which has penetrated to nearly all the fish hatcheries of the State and is or has been present in not less than seventy-five per cent. of all the fish hatcheries maintained in the United States. It may be stated that this phase of the work of the Institute is of such vital importance that President Taft sent a special message to Congress in 1910, asking for an appropriation for a properly equipped biological station for the Bureau of Fisheries, to enable them to meet their share of the responsibilities of this work. The second floor of this building will have one large room with proper accommodation for tables for microscopic work and

benches for chemical analyses. A room for the director of the laboratory and a room for special work and storage are also provided.

The Department of Agriculture of the State of New York has sent an expert to Springville, who has examined the property acquired by the trustees and reports that it is desirable to carry out certain agricultural undertakings on the property. The trustees have purchased a team of horses and desire to keep three or four cows. It is planned to cultivate vegetables on one or two acres, thus supplying the hospital of the institute in Buffalo. An adequate orchard has been planned by the State Department of Agriculture and will be planted in the spring. For the care of the property for the carrying out of these agricultural activities a barn for the accommodation of two horses and three cows and the necessary tool sheds should be erected. The Department of Agriculture in conjunction with the State Architect estimates that for this purpose twenty-eight hundred dollars will suffice.

It is necessary to construct a roadway the length of the property. The State Highway Department is extending the brick pavement from the village of Springville past the north end, thus giving communication with the property from Buffalo over brick pavement and macadam road the entire distance. The spring brook which runs the long dimension of the property will have to be bridged at one or two points. The entire property requires fencing, paths and grading, as well as the building of one or two ponds for fish. It is estimated that for the first year the sum of two thousand dollars will cover these items.

In addition to the sums requested in the foregoing for the utilization and development of the Springville property there will be absolutely required, during the ensuing year, for the maintenance and conduct of the institute in Buffalo, the sum of sixty-five thousand dollars.

In view of the present condition of the State finances and the necessity for retrenchment in appropriations at the present session of the Legislature, the trustees strongly urge the introduction and passage of a bill appropriating the \$13,000 for a biological laboratory building at Springville, and \$2,000 for fencing and road building. Whereas it is desirable that the administration build-

ing, barn and tool shed should also be supplied as soon as possible, they may be provided for next year without seriously hampering this project of the Board of Trustees.

The trustees, therefore, respectfully urge the appropriation of the following amounts:

For the State Institute.....	\$65,000 00
For a Biological Laboratory Building at Springville	13,000 00
For Road Building, Grading and General Improvements	2,000 00

The financial statement for the year follows:

STATEMENT.

Fiscal year ending October 1, 1913.

Stock and Material.

Including chemicals, animals, animal food, glassware, slides, covers, laboratory sup- plies	\$5,319 36
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Equipment.

Including laboratory apparatus, books, micro- scopes, lenses, filing cabinets, furniture, electrical apparatus	2,684 76
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Expense.

Including electricity, lights, heat, expense of publication, repairs to apparatus, station- ery, cleaning, telephone and telegraph serv- ice, traveling expenses	7,586 47
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<i>Salaries</i>	26,868 11
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Subsistence.

For the few days in the fiscal year during which the hospital was open.....	250 84
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Balance.

(Mortgaged by accounts due but not yet paid)	3,203 14
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\$69,912 68

Balance October 1, 1912 (fund for furnishing hos-	
pital not yet completed)	\$9,912 68
Appropriation 1912-13.....	60,000 00
	<hr/>
	\$69,912 68
	<hr/>

In conclusion the institute records with great satisfaction the many expressions of congratulation, commendation and encouragement which have been received from all quarters of the world upon this latest development and perfection of combined laboratory and hospital equipment, and they wish also to record their satisfaction with, and appreciation of, the labors of the director and the entire staff. It has been good, so-called, team work which in the past year most contributed to the success of this work, and the trustees see no reason for fearing that at any time in the future the perfection of such team work will be diminished.

Respectfully submitted,

For the Board of Trustees,

ROSWELL PARK,

Chairman.

Trustees:

ROSWELL PARK,

JOHN G. MILBURN,

WILLIAM H. GRATWICK,

CHARLES S. FAIRCHILD,

CHARLES CARY,

FREDERICK C. STEVENS,

THE COMMISSIONER OF HEALTH, *Ex-officio.*

**ANNUAL REPORT OF THE DIRECTOR OF THE STATE
INSTITUTE FOR THE STUDY OF MALIGNANT
DISEASES, TO THE TRUSTEES OF THE
INSTITUTE FOR THE YEAR 1912-13.**

Monograph on Goiter and Cancer in the Salmonoid Fishes.

The past year has seen the completion of the monograph on carcinoma of the thyroid in the salmonoid fishes, which is now upon the Government press and should appear in February. This monograph covers the results of six years of joint work between the State Institute and the United States Bureau of Fisheries. It will consist of 170 pages of text and 55 plates in lithograph, three of which are in seven colors. It is hoped that before the adjournment of the present Legislature, it will be possible to place upon the desk of each member a copy of this monograph. At the conclusion of our joint work with the Bureau of Fisheries and with the appearance of this monograph it is only proper to state that the United States Government has borne its share of the expense of this investigation, which, however, has at different times used a considerable proportion of our own appropriations, as it was necessary for three consecutive summers to divide the staff of the institute, the director with one or two members of the staff going to the Government fish hatchery at Craig Brook, Maine, where the Government supplied not only the services of the fish cultural station staff, but provided three or four young men, usually college students, who acted as special helpers and assistants. In all of these operations the Government has defrayed the cost of traveling expenses, and has carried out portions of the work which were entirely beyond the possibility of our accomplishment through State agencies. On one occasion the Government sent one of its fish distributing cars into the remoter parts of Wisconsin and brought to the Government fish hatchery at Craig Brook, 1,500 wild trout of various sizes, which were used for experimental purposes in studying the development of the disease. During one summer the Government defrayed the cost

of maintaining an assistant at one of the State fish hatcheries. At the conclusion of the work the Government is now publishing 5,700 copies of the monograph for distribution and our institute has contracted to purchase 1,500 copies for distribution in those quarters not reached by the Government. At all times during the progress of this work we have had the intelligent and willing co-operation of the United States Commissioner of Fisheries, formerly the Honorable George M. Bowers, and now Dr. Hugh M. Smith.

The conclusion of this monograph raises the question of how fish culture both in the Government and State hatcheries is to meet the serious problem arising from the demonstration of the existence of goiter in trout in fish cultural stations. The problem of adjusting fish culture to this condition is beyond the province of the work of this institute except as we may assist by co-operation with other State departments. The United States Bureau of Fisheries is preparing to undertake at once work to determine how the disease may be eliminated from its hatcheries. In this connection the monograph contains the following suggestions:

“The measures to be taken by fish culturists for the prevention of thyroid carcinoma must await a careful investigation planned specifically with this end in view. This we have not been able to undertake. We believe, however, our experiments with wild fish point the way along which efforts should be directed.

“The matter of food is undoubtedly the most important aspect of domestication in relation to thyroid disease. The livers of cattle, sheep, and hogs are chiefly relied upon in rearing the salmonoids, and the extent to which this food is varied or replaced by heart, lungs, horse flesh, and other animal proteids apparently does not alter the situation in this respect. Their availability as fish food makes it difficult to displace them, but fortunately they are not inherently necessary to fish culture. Vegetable food made from staple grains, fresh-water and marine fish and mussels, Entomocstraca and other Crustacea, live maggots and even living adult insects, have been used more or less as foods in practical fish culture. Most of these are not yet available in quantity, and none has displaced entirely the mammalian proteids. Our feeding experiments, however, indicate that

such foods would maintain normal thyroid glands in the salmonoid fishes. To devise and prove a composite ration properly balanced for this purpose would seem a fish cultural problem worth while. Perhaps a cooked mixture consisting largely of vegetable meal in which was incorporated fish flesh and a minor portion of one of the foods used commonly at present would promise best. Possibly even small quantities of insects and insect larvae added to this would be an important improvement. Such a food has ever been a prime desideratum in fish culture and affords a measure of protection against most fish diseases as well as against the one now under discussion.

"Holding the disease to be an infection, the ultimate problem is largely one of prevention, under which would come a more stringent cleanliness of fish troughs and ponds, possibly the annual painting of wooden containers and in case of dirt ponds, their occasional emptying with periods of sun drying, or a change to cement construction. The selection and breeding of resistant strains, or of resistant species like the Scotch sea trout, are obviously indicated.

"As for the presumption, which experiments indicate, of remedial possibilities in the use of mercury or iodine, there is no sufficient basis at present for recommending their use on a practical scale. This would involve their administration over considerable periods of time which their cumulative action might render undesirable. Moreover, that they are absolute preventives of the disease process under discussion is not yet demonstrated. The control of this disease can doubtless be brought about by other means than administration of chemical agents. To this end a fish-cultural station handling preferably the brook trout could well be devoted to the extended experiments having to do with feeding and the access of infection to the fish which are necessary both to more exact knowledge of the disease and to its practical relations."

That the routine of fish culture cannot be revolutionized out of hand without great pecuniary loss must be self-evident. In some respects this institution has had extensive experience with this disease and understands certain phases of the problem. In the report of the Board of Trustees of 1911-12 we called attention to the fact that we had attempted to meet this situation by providing ourselves with facilities to co-operate with the

officials of the Conservation Commission of this State, by purchasing a tract of 32 acres at Springville, N. Y., near Buffalo, upon which can be erected a laboratory with accommodations for experimental work with fishes; that this property has an ample supply of spring water; that if the Legislature gave us an appropriation we would be in a position to extend to the Conservation Commission the experience and extensive facilities of this institute to assist them in meeting the problems which are exclusively theirs.

Radium.—During the past few months there has been an increasing number of publications in the foreign and American medical journals indicating that radium has been shown to possess a distinct field of usefulness in the treatment of cancer. It has been known for some years that radium and the X-ray could be used to treat successfully superficial growths, mostly of the skin, but the great advances in the technique of preparing radium of greater purity and the acquisition by experimenters of increasing amounts of radium, finally brought about so many favorable reports in the treatment of cases of increasing magnitude, that those who have had the most experience in the use of this remarkable element have concluded that the limitations on the use of radium are as yet far from determined. It appears that amounts of a gram or more are required for the successful treatment of cases in which the disease is extensive. There are, in the State of New York, approximately 20,000 unhappy individuals suffering from cancer in various stages. Of these some 3,000 are cases of a superficial and accessible nature, such as cancer of the tongue, lip and mouth, of the skin, and cancer of the uterus in women. Without adding that group of cases known as sarcoma, it is quite clear that these cases may be treated with radium, with a very great hope of permanent cure. Therefore, if the scope for the utility of radium is not extended, as it probably will be, and if the prospect of cure of the cases here cited is not over 50 per cent., it would seem that radium might well be the medium of saving in the State of New York more than a thousand human beings per annum. If this is the case it would seem highly important that the State should at once secure a supply of radium not only for the treatment of cases which other-

wise could not secure it, but for the purpose of determining the extent and degree of its usefulness, and ascertaining the methods by which it may best be applied. In this connection it is well to remember that it is a dangerous agent and must be used with great care. It has also been shown that the use of small quantities of radium is frequently detrimental and that for successful results the State should aim to purchase not less than a gram of radium. In Germany the product known as mesothorium has been put upon the market. The action of this agent is identical with that of radium. It is obtained as a by-product in the manufacture of gas mantles. A year ago the price of mesothorium was \$25,000 a gram. The price has now risen to \$80,000 a gram. This material retains its radio-activity for about ten years and then begins to depreciate. The market price of radium is now \$120,000 a gram. The activity of radium decreases one-half in approximately 2,000 years. Therefore, at the present market price, where radium can be obtained it is a better investment than mesothorium.

The clinical institutes attached to the universities of Berlin, Halle and Kiel have been granted large funds by the Prussian Government for purchasing radium, of which the Prussian state at present owns one gram (Min. Journal, Dec. 6, 1913). In next year's budget, 500,000 marks (\$125,000) will be provided for the acquisition of radium and mesothorium. In addition to these amounts the municipal authorities, or leading private residents, of several important cities have provided large sums for the same purpose, notably Leipzig, 250,000 marks (\$62,500); Düsseldorf, 250,000 marks (\$62,500); Dresden, 200,000 marks (\$50,000); Berlin, 242,000 marks (\$60,500). The total amount granted exceeds 2,500,000 marks (\$625,000).

It would appear unnecessary to make further comments on radium and the possibility of the State securing a proper supply, as there has been so much in the lay press that practically everybody is more or less informed about it. The efforts of the United States Government to conserve radium for the benefit of humanity are also popularly understood. It may be pointed out, if the State provides an appropriation of say \$100,000, that by working with the Bureau of Mines it may be possible to secure

radium for the State of New York at a figure appreciably less than the market price. If the State makes an appropriation for radium, this institute will assume the responsibility of taking charge of it, using it in the treatment of cases, determining the scope of its usefulness, and developing methods for its application.

Hospital.—The new hospital of the institute, with a capacity of 25 beds, for research purposes, was opened on November 1st, with formal proceedings. Dr. Frederick C. Busch, who resigned the professorship of physiology in the University of Buffalo in the spring of 1911, who had specially prepared himself to undertake the work of clinician in our new hospital, died on January 3, 1914. The loss of Dr. Busch has been almost a staggering blow to the staff of the institute. He was a man of unusual capability and we are experiencing difficulty and delay in finding a suitable successor.

Free Examination of Specimens for the Diagnosis of Cancer.—In December of last year the institute sent out through the Department of Health an announcement to the practitioners of the State that from then on it was prepared to undertake the diagnosis of tissues obtained by operation, without charge, to determine by microscopic examination the nature of such tissues and report thereon. Any doctor applying to the institute will be supplied with cards upon which the data may be noted. The card is as follows:

DIAGNOSIS CARD

Name	Age	Date	
Dr.	Clinical Diagnosis	Sex	Mar.
Address			Sngl.
Origin of tumor			
Description of tumor as to duration, size, shape, rapidity of growth, etc.			
Microscopic Diagnosis.			
(Reverse)			

This card to be properly filled out and returned with specimen to
**STATE INSTITUTE FOR THE STUDY OF MALIGNANT
 DISEASE**

113 High Street, Buffalo, N. Y.

DIRECTIONS FOR PRESERVING SPECIMEN.

Specimen should be put at once into 10 per cent. formalin in a wide mouthed bottle. A piece the size of a chestnut is sufficient. This should be cut from the suspicious looking area, viz: where there seems to be a solid mass of tissue whitish or grayish in color. Avoid the broken down areas. A section from the edge of the tumor is best. In flat tumors, as those from the skin, stomach, intestine, etc., the specimen should be cut at right angles to the surface, that the relation of the normal tissue may be preserved. Where metastases are present a portion of these should be included, marked properly or put in a separate bottle. When two pieces from different parts of a growth are placed in one bottle cut them of different shape and properly describe them stating from where taken.

This work is under the charge of Dr. Burton T. Simpson, pathologist. The requests for examination began at once and during the past 11 months 362 specimens have been examined, and reported upon to the profession. These have come to us from 57 different towns covering the entire State outside of New York City. At the present rate of increase it is probable that we shall be called upon during the coming year to examine not less than 1,000 such specimens. It is interesting to note that of the 362 cases examined, 166 were malignant and 196 were nonmalignant. The diagnosis made by the doctors sending these specimens were right in 72 cases, wrong in 36 and in 145 no statement of clinical diagnosis accompanied the specimen.

Statistical Study of Cancer.— It has long been known that the statistical study of cancer would have to be greatly improved before valuable information along these lines could be obtained. The International Cancer Society has prepared a so-called International Question Blank. In order to compile data the State Institute a year ago through the State Department of Health sent out to doctors a list of additional questions, other than those contained in the standard death certificate, as follows:

ADDITIONAL DATA REQUESTED.

1. Was there history of possible hereditary origin of the cancer?

2. Was there history in the deceased of: (yes or no) Tuberculosis Syphilis Alcoholism Other chronic illness (please name)

3. Had the patient suffered any trauma, ulcer, or other similar irritative condition which lead up to and might have initiated the cancer (e. g., gastric ulcer, cervical tear, chronic mastitis, inveterate use of pipe or cigarette, pessary, single or multiple child-birth, etc.)

4. If not clearly recorded in the death certificate please state to the best of your knowledge and belief:

- (a) Where did the primary growth arise?
- (b) When did this growth probably begin?
- (c) In what locality was patient when the growth began?

5. What was the first distinct symptom or sign?

6. Were there metastases?

7. Was the diagnosis confirmed either before or after death by microscopic examination of the growth?

8. If so, what was the pathological diagnosis?

9. What measures, medical or surgical or both, were employed (e. g., X-ray, Radium, Toxins, Caustery, or Operative removal)?

10. What was the result of these measures?

Note.—In your personal experience of the past 15 years can you refer to any person or persons now living, having spontaneously recovered from an undoubted cancer, of which the diagnosis was confirmed by microscopic examination?

Name.....

Address

Name of Physician answering above questions.....

Address

We have been unable thus far to secure the co-operation of the department of health of the city of New York, but a further attempt will be made this year to have them operate the same system for that city, so that ultimately the statistics may be compiled for the entire State. After statistics of this nature with the extended questions have been collected for a few years, we may expect to determine some of the important unsolved questions regarding the incidence and distribution of cancer in our State. In conjunction

with the question of goiter in fish, it is the purpose of the institute in the near future to attempt to determine with the aid of the State Department of Health the geographic distribution of goiter in the State of New York.

Bio-chemical Department.—The work of the bio-chemical department of the institute has been unusually productive during the past year. Dr. Clowes in charge of this work has presented very significant papers before scientific societies and is carrying on elaborate experiments with new chemical compounds, some of which it is hoped may prove available in the treatment of malignant and allied diseases.

With the opening of the hospital and the increased responsibilities which are placed upon the institution thereby, and with the rapid advances which will take place in the development of X-ray technique, and special work in connection with radium, as well as the necessity of transferring animals from the property in Buffalo to the newly acquired farm at Springville, the appropriation for the coming year should be \$65,000.

Respectfully submitted,

HARVEY R. GAYLORD,
Director.

THE CANCER RESEARCH HOSPITAL.*

By JAMES EWING, M. D., New York.

In the year 1913, New York State opens a hospital for cancer research. The event is significant. When a State Legislature commits itself to clinical cancer research and devotes public funds to this purpose, it establishes important precedents.

It means that enlightened public sentiment in this community is not satisfied with maintaining homes for incurables and that the study of cancer in the human being is worth while, and a legitimate State function. One can hardly expect an event of this character to attract great public attention. The public mind is chiefly interested in sociological experiments on a large scale, the larger the scale the better; to determine how a man shall get along with his neighbors, and how the wealth of the land shall be distributed.

The lust and worry about money may be a very important economic question, but its solution does not tell essentially for the permanent betterment of mankind. Humanity advances chiefly through enlarged control of its physical environment. This type of progress is dependent upon the sciences. The world's real work is being done by a relatively small army of physicists, chemists, and biologists, whose average wage is little larger than that of the bricklayer. They have no trades unions, no cyclic demands for larger pay, and their fortunes will not generally be reached by an income tax.

The public at large is an unsuspecting and innocent beneficiary of the slowly gathered fruits of this labor and receives only a belated newspaper notice of the sensational phases of scientific progress. It is hardly to be expected that the average man in the treadmill of American life should busy himself with the interests of science, but it may not be amiss to refer to this aspect of the socialistic movement of our times.

Possibly those in control of the forces which design to take over a large portion of American fortunes propose also to assume the

* Read at the formal opening exercises of the research hospital of the State Institute for the Study of Malignant Disease, Buffalo, November 1, 1913.

responsibilities heretofore carried by these fortunes. Practically all the support of American science has come from men of large means, but one does not hear of any political platform which clearly proposes to maintain and enlarge the immense philanthropies now voluntarily supported by the rich. Indeed, one may gravely question whether the general intelligence of governing bodies in America is equal to this task. In fact, the public utterances of many men in high places indicate a firm resolve to readjust the wealth of the land, but little concern as to how they are going to spend the money.

American science has much at stake just now, and it may become necessary urgently to push its claims into public notice to avoid a long period of repression. Especially is it to be feared, when the support of science becomes a governmental function, that the finer appreciation of the peculiar needs of medical research may not be felt by the successful political leader, and that the optimism which is willing to risk large resources on faint possibilities may not appeal to political bodies at all.

Under these circumstances the action of the State of New York in establishing new relations to an important department of medical science assumes a significance not realized by the man in the street. Yet as I interpret the function of to-day's ceremony in Buffalo, it is just to do what the man in the street will not do, pause to consider the meaning of a decision which commits the State of New York to cancer research in the clinic.

It is no reflection upon the intelligence of our Legislature to suggest that this movement did not arise within its ranks. The layman's impression of cancer is of something very indefinite, very portentous, quite hopeless, a disease which always affects some one else than himself, about which he carries no immediate interest or responsibility. This point of view does not originate any activity in the fight against cancer.

Neither can it be supposed that the medical profession with its larger acquaintance with the disease rose up and demanded that the State enter upon this field of work for the public health. The average physician is a confirmed pessimist on the cancer question, and probably the profession as a whole feels that the community has done its full duty in providing routine surgical skill for the

early cases, and asylums where the advanced stages of the disease can run their course under bandages and morphine anesthesia.

No, the impetus for this movement must have come from some specially enlightened and aggressive source, from some man or group of men who are fully alive to the real needs of the cancer situation, both from the humanitarian and from the scientific sides.

The city of Buffalo may well be congratulated upon the possession of such leaders in medicine, who not only have advanced ideas, but have the power to put them into practical form. The possession of a cancer hospital is the logical development of those activities which for many years have maintained in the city of Buffalo a leading and pioneer institution for cancer research, and in my judgment it stands as a flattering indorsement of the past work of that institution, and signifies a confident hope for new and important results in the future. I take pleasure in expressing my conviction that no other institution in this country more richly deserves this enlargement of its scope, and nowhere could the large resources involved be placed to better advantage.

It is well to recall that the Buffalo institute provided opportunity for concentrated and specialized work on the nature and causation of cancer at a time when other American medical centers and most of those abroad indulged in only a casual and perfunctory interest in the problems of this disease. At that time, at least one considerable endowment intended for cancer research was diverted from its objects because the medical circle into which it fell enjoyed only a routine surgical and largely commercial interest in the subject. Under such circumstances no one could claim that cancer research was an inviting field. On the contrary, it was regarded as unproductive territory into which a laboratory worker ventured at the peril of oblivion or virtual ostracism. Even to-day, quite distinguished workers in cancer problems seem to come and go, while others do occasional obeisance to the great biological Sphinx and then hastily pass along.

The only active question at that time was the possibility that a specific cancer parasite might exist. Into this field the Buffalo institute entered with enthusiasm. As a friendly critic of that earlier work I venture to say that the studies of *Plasmodiophora* enlarged upon previous knowledge of that subject, that the com-

pilations and observations on cancer cell inclusions were the most elaborate in the English language, and that the activities of the institute brought American information and opinion abreast of the views of leading Continental authorities who had committed themselves to the parasitic theory of the origin of cancer.

When the modern era of the study of transplantable tumors in lower animals began, in 1902, the institute immediately took a conspicuous position in the pursuit of the many problems which the new experimental method revealed. It may safely be stated that the institute contributed its full share of the really new and important facts that have developed in this field. The observations on the spontaneous regression of spontaneous and implanted tumors and on the development of artificial immunity and its nature, while at first contested or denied or bodily appropriated by some European workers, have emerged from debate as scientifically attested facts, thus proving that the Buffalo work was conducted with competency and skill.

While the existence of thyroid cancer in trout was demonstrated by our European colleagues, the recognition of the peculiar problems presented by this disease was the work of the Buffalo institute. The energy and very elaborate scope with which this research has been conducted stands as a model for the scientific pursuit of a large problem and is especially valuable in revealing the extensive equipment and expert organization which is required for the successful study of many biological problems.

Not the least significant phase of this work was the stirring of the United States Government to its support. Finally, to complete this record of qualifications the institute is known for its consistent contributions on the serology of tumors, on many chemical questions of importance, and in the testing of reputed therapeutic agents as well as the elaboration of original ideas in experimental therapy. Through these highly profitable years spent in experimental studies, the institute has maintained an attitude of dignified optimism regarding its own work and the general progress of cancer research. It has not overexploited itself, nor overestimated the importance of its own work, nor assumed for itself, much less openly claimed for itself, any specific inspiration or apostolic authority.

On the contrary, as the most active influence in the foundation of the American Association for Cancer Research, as a joint originator and notable supporter of the International Association, and as a cordial friend and helper of many colleagues in this country and abroad, the Buffalo institute stands in an enviable and unassailable position. To such an institution now comes the responsibility of conducting intensive research upon cancer in the human patient. The hospital is open; what is to be done with it?

The experiment of extending the activities of laboratory workers to cancer in the human subject and of gathering for this purpose under one roof a considerable number of patients mostly in the condition called hopeless is an experiment, but not entirely a new one. At least three American institutions and several abroad are already organized in this way. The uncertain feature of the plan concerns the possibility of maintaining a desirable mental atmosphere about an institution peopled largely by all too obvious victims of a dread disease.

This difficulty has stood in the way of the establishment of cancer homes, and some good surgeons feel that it is an insuperable objection to the cancer research hospital. Others, mostly lay persons whom we need not stop to classify, gravely fear that the patients in such a place will serve merely as subjects for experimentation, with very deleterious effects upon the morals of the experimenters. Yet the brief experience of existing cancer research hospitals is distinctly to the effect that a reasonable optimism may be maintained among the patients and personnel.

Write the word "hope," meaning hope only of definite palliation, over the door of a home for cancer incurables and you convert that home into a live cancer research hospital. You can fill it several times over with eager patients. Even without the promise of more than routine medical and surgical care, there is no field of hospital work so inadequately provided as are the needs of the inoperable cancer patient. The physical suffering entailed by cancer is not a part of our topic, but the attention of philanthropists may well be called to the urgency of this need beside which most other charities appear dwarfed. But it is not for the mitigation of suffering by the better application of known methods that the research hospital is primarily intended. It is for

the much larger ambition of adding to our knowledge of the nature and control of the disease by its more elaborate and careful study in the human subject.

About ten years ago a notable investigator, discussing the new observations on artificial immunity to cancer in lower animals, declared that the outer breastworks had been stormed and it was only a question of time when the inner citadel would be captured and cancer become a solved problem. Perhaps because of weary desertions from the ranks, the capture of the citadel has been delayed. In fact, I think it must be candidly admitted that the results of the modern era of experimental cancer research from the standpoint of the human patient have been disappointing. I hasten to add that this point of view may not be a legitimate one from which to judge the results of this era. Workers in the most obscure problem of medical biology resent the question, "How many cases of cancer have you cured?" There is no obligation resting upon cancer research to arrest the course of a naturally fatal disease, any more than the chemist must justify himself by making diamonds out of charcoal. It cannot be too strongly urged that the value of contemporary results in the study of cancer should not be estimated from the therapeutic side. One must be prepared to face the contingency that the problem of advanced inoperable cancer may always remain a therapeutic impossibility, and there is strong reason for believing that it will so remain during our present era.

Many believe that exclusive attention to the direct attack upon cancer in man stands in the way of necessary fundamental progress, and that we are not ready for the therapeutics of cancer. While fully assenting to the general validity of these objections, I cannot help feeling that modern cancer research owes something to its day and generation, and I have been impressed by the fact that the very significant advances of the past decade in some departments of research have brought very little relief to the cancer victim.

It is highly interesting and theoretically important that many cancers in rats and mice spontaneously regress, but we already know this to be true of human cancers and that the event is very much less frequent in man than in lower animals. Perhaps some

day we may learn from the lower animal why this regression occurs, and be able to facilitate the process in man. The modern progress stops short of this goal.

It is very encouraging to be able to arrest tumors in animals by blood transfusion, by various traumas, by strangling the blood-vessels with epinephrine, by poisoning the animal by various toxic agents, by high temperatures, by injections of colloidal metals, even by simple changes in diet: or by complex synthetic compounds labelled "chemotherapeutic" agents, and by many other procedures, but therapeutic tests on a vast scale, in many countries, return the verdict that these methods are ineffective in man. Serological studies have revealed many subtle changes in the blood of organisms suffering from cancer, but with the possible exception of Freund's observations that cancer blood has lost the normal capacity to dissolve cancer cells, this work has not elucidated the nature of cancer predisposition, nor enriched our practical diagnostic measures, nor opened the way for constitutional treatment of the disease.

It is quite confusing to learn that certain tumors or tumorlike processes in chickens can be transmitted by an agent filterable through porcelain, but this is the only department of chicken pathology that has been carefully investigated so that one hesitates to apply this principle to any process in man; its interpretation in the chicken is difficult; and it may very well be that this problem, somewhat artificially created, in spite of being very ably pursued, may lead nowhere in the etiology of human tumors.

Likewise, the discovery of an epidemic of cancer of the stomach in rats and the brilliant demonstration that this disease is connected with a nematode worm found in a limited circle of cockroaches which enjoyed the rich diet of a Copenhagen sugar factory, furnishes a model of scientific acumen and finished research, but there is not the slightest indication that gastric cancer in man has any parallel etiological relations.

While a very high value must be placed upon these and other notable results of the study of tumors in lower animals, does it not appear, on the whole, that this field of work is somewhat distantly removed from the real problems which animate cancer research? The variations in biological processes are almost infinite. The

direct attack upon cancer has proved ineffective, but it is not necessary to aim the guns as far away as possible in the hope of opening up effective side paths of approach. There is a growing conviction that to know cancer in man one must study the disease more carefully in the human subject.

In the past few years the development of facilities for this type of research has progressed with great rapidity. It is worth noting that at least ten special institutions of this sort have come into existence in the past few years, indicating a very strong current toward human cancer research as against the purely experimental field.

The problems presented in the cancer research hospital are so numerous and conspicuous that their contemplation at once reveals that this is the broadest and the most profitable of all departments of the subject. Here is the place for the study of etiology in which clinical observation has already furnished our most important knowledge.

A young surgeon, in discussing a communication on precancerous conditions of the breast, recently asserted that a disease is either cancer or not cancer. Quite the contrary; a pathological condition may be neither the one nor the other. It may be in the process of becoming cancer, and this process takes time, sometimes years, and is attended by certain rather definite morphological changes easily detected by the microscope and often recognizable by the naked eye, as well as by very important changes in physiology. It is a highly important fact that these precancerous conditions are usually remediable by the knife, or by less violent measures.

The great majority of cancers, according to Billroth, all of them in many regions, are preceded by such preliminary changes. Much is known, but more remains to be learned about precancerous conditions. They are of very general clinical interest, but the cancer hospital should contribute an important share in the more careful study of these conditions and in the spread of the knowledge thus obtained.

The special etiology of tumors varies with each particular variety and constitutes a large chapter of our knowledge of cancer. It presents one of the most comprehensive fields of clinical re-

search for which an extensive acquaintance with the literature of the disease and with general medicine is essential.

I sometimes think that those who frequently emphasize and deplore the paucity of information about the nature of the cancer process would do better to familiarize themselves with what is actually known about the very numerous factors which condition the development of tumors.

We may never know just why cancer cells grow lawlessly, but we can elucidate a vast number of conditions under which they are observed to do so and perhaps remedy the conditions. The influence of racial, local, and personal habits upon the nutrition and functions of different organs, the traces of heredity, the evidence and nature of local tissue and general constitutional predisposition, the influence of chronic infection, of trauma, and many other matters enter into the etiology of tumors, and should be pursued in a cancer hospital by observation, analysis, and experiment, by clinician, chemist, and pathologist.

The cancer hospital is no place for the immature and indolent mind, either in the wards or on the administrative staff. Unstable emotions and sentimentality of every other kind are out of place in its neighborhood. The spectacle of humanity bowing before the unhindered progress of a disease which tends almost inevitably, to a fatal issue, often with much physical pain, can be sanely viewed only in the light of science. In this light there is value in every observation steadfastly pursued to the end.

The natural history of cancer is far from a finished story and has never been adequately written. The medical profession is in the habit of regarding it as a single disease varying chiefly in location and prognosis. This view is about as profound as the ancient impression of inflammation, which grouped tuberculosis, syphilis, and pyogenic infections, as well as many tumors, in one category. But there is no more justification in identifying embryonal cancer of the testis with cancer of the breast or epithelioma of the lip, or traumatic sarcoma of the long bones than for confounding lobar pneumonia with typhoid fever. The tumors mentioned are related only as forms of neoplasia, the infectious diseases only as inflammations.

The etiology, symptoms, clinical course, and indications for

treatment, which constitute the specific quality of clinical entities are in many cancers quite different. Not until we come to recognize the individual character of different tumors, benign and malignant, can we comprehend their true significance.

The cancer hospital offers conditions where the natural history of tumors can be observed and recorded in all its phases, and where our knowledge of this vast and comparatively neglected department of medicine can be greatly amplified. For this purpose, a well organized department of pathology is essential, every type of patient in any stage should be admitted, and the public should be educated to the necessity of post mortem study of every fatal case.

As a factor in medical education every one must see the immense influence which the cancer hospital is capable of exerting. I would recall the declaration of the American Association for Cancer Research, that the knowledge of the early symptoms, diagnosis, course, and treatment of cancer is very inadequately taught, even in the best medical schools. It cannot be adequately presented as a clinical study because the hospitals shun the advanced cancer patient. The inefficiency of our present methods of diagnosis is shown by the statistics of the best Berlin hospitals, which prove that twenty per cent., even of fatal cases, come to autopsy unrecognized. The microscopical diagnosis of tumors is one of the most difficult of laboratory specialties, requiring many years of experience, and often much careful and competent consideration, but much of this work is done by laboratory tyros, chemists, and drug stores. Yet when the facilities for acquiring this knowledge are so limited, one should not blame the surgeon too severely for his amazing confidence in the amateur and the fakir.

The grave defects in the knowledge of the average practitioner of primary facts about the early diagnosis and treatment of cancer have been revealed by many investigations of this subject conducted by clinicians themselves with the conclusion that the chief hope of an immediate reduction in the mortality from cancer lies in its earlier recognition. For this end the public should doubtless be made acquainted with the early symptoms of cancer, but first of all the competency of physicians must be assured.

The cancer hospital in connection with a university can do more than any other institution to provide material for the educational movement. It should collect a gross and microscopical museum, train expert diagnosticians, and open its wards freely to students.

Under such conditions much new and important information concerning the nature, etiology, histogenesis, and prognosis of tumors, and the relation and classification of neoplasms can be acquired. To the experimentalist all this is dull routine, mere skirmishing and sharpshooting, and will never lead to the grand upheaval with the storming of the citadel revealing the great secret of cancer. Yet it should be recalled that the great bulk of our knowledge of the disease has been acquired by just such methods of painful and persistent observation and analysis of apparently routine phenomena. Moreover, the results of experimental study in all fields must eventually come before the bar of just this sum total of clinical and pathological experience with the disease and there be judged as to their validity.

Personally, I find so much of interest in the study of etiology histogenesis, prognosis, and classification of human tumor material, that I have never been able fully to indulge a passion for artificially created problems, and I have an impression that this sort of work tells effectively, although indirectly, in reducing the mortality from cancer. One must obviously supplement the old fashioned methods of study by serology and chemistry with experts specially interested in cancer problems. In these fields human material appears to be essential and for this end alone the cancer hospital would justify itself. Very important problems in both these departments are beginning to define themselves.

The chemical study of tumors and of the affected organism is still in its infancy. In fact it seems to enjoy recurring periods of infancy. It was highly in vogue in Virchow's time. So far as I can learn there are only two studies of the sugar content of the blood in cancer, one about 1860, reporting an increase, the other in 1910, recording a decrease or variations in this substance. Among many other problems, one awaits the results of modern chemistry as a necessary basis for the ambitious science of chemotherapy of cancer into which some would boldly venture without such light.

Serology also has made a conspicuous entry into cancer research, and will doubtless prove an essential instrument in elucidating many subtle changes in cancer processes. Both these sciences should be adequately represented in a cancer hospital.

Therapeutic studies are bound to claim a large share in the activities of a cancer research hospital. In fact a hasty tour through such institutions in England and the Continent might suggest that this is their only real interest. It would at least convince the visitor that the partial success of the palliative treatment of inoperable cancer fully justifies all the support these institutions have received. To the harsh critic, the treatment of inoperable cancer is nothing more than a form of euthanasia, and such as a rule it proves to be. Yet the palliative treatment of these patients is a worthy service, demanding far more patience and skill than are involved in most routine functions of the physician. It is an intellectual rather than a mechanical occupation, and when it is well done calls for the skill of an artist.

I suppose that when Czerny began to take an active interest in the palliative treatment of cancer, it was by some regarded as the beginning of the end of his career. But I recall that it was only in his old age that Abraham was taken up into the mountain and had his eyes opened to the promised land. Not a few distinguished surgeons have been willing to devote minute attention to this subject, which calls for much surgical skill and experience and for a knowledge of many adjvants to surgery. Of the very numerous devices which are shown to retard the progress of cancer I do not propose to speak, but merely mention that this field should be developed to the highest possible point which its costly nature permits.

With rare exceptions, I think the principle should be followed of prolonging life to the limit, not only because life with hope or consecutive activity is generally worth while, but because surprising improvement may be observed, and there are on record very puzzling cases of apparent recovery from the last stages of cancer.

There is also recorded a series of malignant tumors with very prolonged course occasioned by periods of quiescence under elaborate palliative treatment, and there is little doubt that this frequent tendency of the disease is not always encouraged to assert itself. I regard these cases of spontaneous partial arrest

of cancer as highly important objects of study, illustrating phases of cancer immunity. None of them, so far as I know, has ever been fully studied from the serological and chemical sides. It was with such a case that Hodenpyl made his interesting observations, showing the undoubted presence for a time of a curative agent in the chylous ascitic fluid of breast cancer.

Successful palliation is not, however, the sole therapeutic ambition of a cancer hospital. The numerous methods which have proved capable of retarding or eradicating experimental tumors in animals naturally rouse the hope that some one of them may be found effective in man. Thus far none of these biological methods has had any significant influence over generalized or advanced human cancer, although isolated paradoxical results are credited to many, while not a few give temporary mitigation of symptoms. In this situation it is difficult to avoid a form of quackery in clinging to a method whose influence is uncertain. Yet in a cancer hospital, where the financial element is eliminated, any method with a sound theoretical basis deserves a thorough test.

An enormous labor is now being expended in investigations of this class, but it must be seriously questioned if the field is ripe for any harvest from the vaccines, sera, metals, ferments, and complex chemotropic agents lately employed on an extensive scale. These agencies ignore every element of the disease except the cancer cell, they rest on an assumption that all cancer processes are essentially alike, and they indulge the hope that some shadowy property of a chemical body, diluted in the blood stream, may somehow arrest the momentum of a whole series of a headlong vicious process in cells and organs. I have often wondered if some of these agents might not be able to control the early stages of tumors, but against advanced or generalized carcinosis it seems a vain hope to set up any circulating material so far devised.

Yet for localized but inoperable cancer there has recently come renewed hope and from partially discredited sources. Radium and its allies have made a steadily enlarging field for themselves in the treatment of localized and inoperable tumors. It has long been known that sufficient exposure to radioactivity kills cancer cells while sparing normal tissues, and it has remained a question of the technic of application how far this action could be employed for the control of cancer. So long as the use of radium was

limited to superficial growths, just as well removed by the knife, it was regarded as an interesting and expensive toy, and when not a few aggravations of the disease were charged up against the careless or inadequate application, it assumed the character of a dangerous toy. No such atmosphere surrounds the reputation of radium to-day. Every year has brought improvements in the methods of application, in the quantities available for use, in accuracy of dose, and in the observation of effects.

It has been demonstrated that radium is the best method of treatment of certain superficial and some deeper tumors which may also be removed by the knife, and that in a few conditions, deforming operations not certainly successful may well be avoided by its use. Much yet remains to be learned of the physics of radium and its products and of allied substances. Well equipped physical institutes in Paris, Birmingham, and Vienna are fast supplying this information, which will doubtless prove an important control in the medical application of radium.

The X-ray treatment of cancer has made substantial progress during the past year. Here again it has been a question of the technic of application, since the destructive action of X-rays upon cancer cells has long been recognized. By the repeated and prolonged application of filtered rays it has been possible to render many inoperable tumors accessible to the knife and in some instances completely to eradicate extensive although comparatively superficial growths which were formerly regarded as far beyond the reach of this or any other agent.

Thus the field of radium and X-ray as curative agents in cancer is rapidly widening, and the results already obtained assure for the cancer hospital a definite field of successful therapeutics of inoperable and borderline cases. Likewise the capacity of these agents as palliatives is correspondingly increased, so that by systematic employment of physical therapy, the melancholy aspect of the chronic cancer ward may be greatly mitigated.

The possession of an effective supply of radium, a fully equipped light department, and competent experts capable of breaking new ground, supported if possible by a trained physicist, are quite essential parts of the organization of a cancer hospital. While the ultimate results of the new methods of physical therapy are not yet known, and the real problem of the constitutional

treatment of generalized cancer still remains untouched, there is no doubt that very important new weapons have been made available for the fight against cancer.

From the consideration of these various functions of the modern cancer research hospital, I think that it must be evident that such an institution not only can justify its existence, but fills a very urgent need without which the progress of cancer research would be handicapped, and much relief that might easily be extended to cancer victims would be unavailable. Nor is there any doubt that the function of supporting such an institution is properly exercised by the State, which support should be continuous and liberal.

I have to confess that the plans of such a hospital, as they appear to me, do not contemplate the early subjugation of cancer, but look rather to the slow and painful attack upon a great number of problems which are present in this broad field.

Personally, I do not look for any startling advances or sensational discoveries, either in the etiology or therapeutics of cancer. I do not think the citadel will ever be stormed. It seems much more likely that a steady reduction in the mortality from cancer will come chiefly from a large number of separate factors, of which the most significant appear to be increased control of the conditions leading to cancer, more general recognition of the preliminary stages of the disease, and earlier diagnosis and treatment of the established disease.

If there is any wisdom in this forecast, which I believe embodies the views of many workers in cancer research, then a prime importance attaches to all the various activities of a cancer hospital. Through the steady growth of our knowledge of every phase of neoplastic disease, and not by a single grand denouement by some inspired medical genius, will the problems of cancer meet their solution in due time. That the cancer process will ultimately yield before this steady advance of knowledge is, I believe, a legitimate conclusion. A tissue infiltrated by cancer is not wholly beyond repair. We need only recall the series of cases in which established cancer has spontaneously disappeared, leaving the affected tissues cicatrized but in a functioning condition. In the same way bulky gummas disappear, leaving only moderate scarring.

In Mackay's well known case there was probably extensive absorption of carcinomatous tissue and astonishing improvement in general health. Thus Nature occasionally heals the cancerous lesion, showing that such a result is well within the range of physiological possibility. That Nature's secret may be discovered or that the same result may be accomplished by other means, is a reasonable assumption. Already there are hints regarding the nature of certain agents that may eventually prove effective.

The deadly X-ray may be made to penetrate the deepest tissues, even the bone marrow, and radium may be sent circulating to the farthest corner of the body. It may be possible to intensify and localize the action of these physical agents. From the biological side we know that cancer tissue is in some respects specific and excites in the body the formation of specific antagonistic substances. Abderhalden has shown that these antagonistic ferments appear in probably every case of cancer and often in the early stages. Perhaps with early serodiagnosis one may be able to intensify the protective processes in the body and arrest the disease in its incipency by following Nature's own devices. Again, the specificity of cancer tissue calls for a peculiar chemical composition or physical state with peculiar chemical affinities. Hence the ultimate basis of chemotherapy is well founded, and the search for effective agents in this field may some day be successful.

I would not attempt to predict in what direction the therapeutic labors of cancer research will prove most effective, but merely assert that its labors will not be in vain. The conception of cancer as a curable disease may well inspire an optimistic spirit in all who are engaged in its study.

The new institution formally opening to-day is the logical outgrowth of the optimism which led to the founding of the original Gratwick laboratory; it represents the larger scope of modern cancer research; it is destined to add much to our knowledge of human cancer, whether it makes sensational discoveries or not; it expresses the determination of discerning men to provide the State of New York with an institution fully equipped for its great purpose; it is a notable monument to the State of New York and the city of Buffalo; and it begins its career with the unqualified endorsement of medical science.

SUMMARY AND CONCLUSIONS OF MONOGRAPH ON CANCER OF THE THYROID IN THE SALMONOID FISHES.

(Appearing as Bulletin of the Bureau of Fisheries, 1912, and from the State Institute for the Study of Malignant Disease, Buffalo.)

I. The present investigation of thyroid carcinoma among fish was begun by the Director of the Gratwick Laboratory in furtherance of the inquiry of that institution into the nature of cancer in man. Having brought it to the attention of the United States Bureau of Fisheries through the President of the United States, an investigation of wider scope resulted, based upon its interest and importance to fish culture and to cancer research in general, and uniting the Federal and State resources as represented by the Bureau and the State Institute.

Bonnet in 1883 described a gill disease in trout which is undoubtedly identical with the subject of this inquiry, and is thus the first published reference to it, though the nature of the disease was not at that time recognized. Scott in 1891 first identified the disease as carcinoma, without recognizing its relation to the thyroid gland. Its origin in the thyroid was first asserted by Plehn in 1902, who diagnosed it as adeno-carcinoma. Pick in 1905 published the first extended study of the structure of the growths and insisted on their carcinomatous nature. Gillruth in 1902 described it briefly as an epithelioma affecting the branchial arches and showed that it was widely distributed among the hatcheries of New Zealand.

Gaylord began the study of the disease in 1908 and reported evidence pointing to an infectious factor in its causation. Marine and Lenhart, as the result of studies in 1909, and subsequently, hold that the disease is endemic goiter and have failed to find any specimens which they recognize as cancer.

The disease is widely distributed throughout the United States and probably occurs more or less everywhere that artificial propagation of salmonoids is carried beyond the early stages. (At least 75 per cent. of all fish hatcheries propagating trout in the United States are infected.)

II. The normal thyroid follicles in salmonoids resemble those of the mammalian thyroid, but the gland is not encapsulated and not so definitely confined within given limits. In wild brook trout the largest masses of thyroid follicles are faintly macroscopic, and all the thyroid tissue is located in the neighborhood of and chiefly dorsal to the ventral aorta between the first and third gill arches, and does not extend laterally along the arches. The distribution is somewhat more restricted than that indicated by Gudernatsch. Anomalous deposits frequently occur beneath the epithelium of the jugular pit, but are rare elsewhere. The thyroid follicles of wild trout are regular in shape, usually spherical or slightly elongate and in the typical or simplest condition its epithelium is flattened or never higher than cuboidal.

III. Simple hyperplasia of the thyroid is met with in trout living under wild conditions. The follicles are increased in number, are more irregular in shape, the colloid is diminished, and the epithelium is in large part columnar. Such a hyperplasia exists also in domesticated trout and is not to be distinguished from the earliest stages of carcinoma of the thyroid. The immune Scotch sea trout as yearlings occasionally exhibit this simple hyperplasia, and a few adults are found with colloid goiter. Spontaneous recovery from thyroid carcinoma in fish does not result in this picture of colloid goiter.

IV. The first macroscopic evidence of the disease is usually found in an area of hyperemia on the floor of the mouth (red floor). The first evidence of visible tumors may be found at the branchial junction. Tumors may protrude in various directions, at the branchial junction, in the floor of the mouth, or to either side of the gill region. Independent tumors develop in the jugular pit, a region which frequently contains deposits of normal thyroid tissue. The first microscopic evidence of the disease is found to occur in individual follicles, usually those nearest a large vessel. A small group of altered follicles surrounded by normal follicles is frequently found in the early stages. The epithelium is high cubical or columnar, the protoplasm and nuclei stain deeply. Colloid is diminished or absent, the vessels of the stroma hyperemic. Budding of the wall of the follicle next

occurs, forming isolated new follicles of irregular type, and papillary projections into the follicles. As the gland is not encapsulated, newly formed tissue grows between the muscle planes and fills in the areolar spaces. At this stage karyokinetic figures are common, the epithelium is high columnar, and frequently there are several layers of epithelium in a single follicle. Proliferation may now have reached a sufficient amount to produce the red-floor stage. Bone, cartilage, and muscle are invaded. The growth no longer seeks the paths of least resistance. In the visible tumor stage there is a remarkable variation in the character of the proliferation. All the various types occur in one tumor. They may be divided into alveolar, tubular, and solid, and combined with papillary and cystic types. Frequently small adenomatous structures of malignant appearance are found invading and infiltrating the surrounding thyroid structure of less malignant appearance. Occasionally islands of normal thyroid tissue have been found in the bone spaces or cavities of the bone where the entire surrounding structure was replaced by thyroid carcinoma. True infiltration of bone, cartilage, vessel wall, muscle, and skin has been demonstrated. Occasionally tumors are met with which present the appearance of so-called sarco-carcinoma of the thyroid in mammals; a background of spindle cells resembling sarcoma with occasional alveoli.

Growths upon the apex of the lower jaw are either implantations or metastases. A marked similarity of the primary tumor in the thyroid region with the growth upon the tip of the jaw in one case studied indicates that this is probably metastasis formation at the site of an injury. An undoubted case of metastasis formation is found in a tumor growing in the intestinal wall at the lower end of the intestinal tract, which infiltrated the muscularis mucosa of the intestinal wall, of characteristic thyroid carcinoma structure, large irregular follicles lined with columnar epithelium, occasionally containing colloid. Portions of the tumor present an appearance closely approximating the least malignant appearing primary tumors. The character of this growth and the region in which it occurred shows conclusively that it is a metastasis. A comparison of the various types of thyroid carcinoma of the

salmonidae shows that they approximate in type three of the groups made by Langhans for carcinoma of the thyroid in mammals, viz.: proliferating struma, carcinomatous struma, and malignant papilloma.

V. Three examples of the disease have been found in wild fish in the United States. One occurred in a brook trout which may have been planted from a hatchery. One was in a whitefish from Lake Keuka, N. Y. None of the species of whitefishes is fed or reared artificially. The third was a large land locked salmon from Lake Sebago, Maine, the source of the water supply of the city of Portland.

VI. The disease has been observed in 16 species of salmonoids, or in hybrids made among these.

The geological formation at the sources of the water supplies in which the disease occurs has apparently nothing to do with its origin, nor has the dissolved content of the water.

The disease is usually endemic, and occasionally epidemic. It occurs in ponds and troughs, of whatever construction, in which fish are held, reared and fed the ordinary proteid foods of fish culture, viz.: raw liver, heart, lungs, and other meat. It shows a tendency to increase from above downward in the course of a given water flow. Hybrids of the Pacific salmon are especially susceptible and show a high incidence. When endemic, the course of the disease is slow and chronic, with a low death rate made indeterminate by complication with intercurrent or terminal infection and other causes of death. The incidence of tumors varies greatly and increases with the age of the fish. Macroscopically visible growths have not been seen in fish under about five months of age. Anemia and cachexia, sometimes extreme in degree, are a frequent but not constant accompaniment of the disease. Immunity is strikingly exhibited not only among species, as the Scotch sea trout, but with given lots of a susceptible species. Recovery or regression occurs when affected fish are removed from domestication to wild conditions and also in fish in ponds in which the disease was acquired.

VII. Feeding of fish tumors, or of human cancer, to brook trout has not during a period of several months produced the slightest evidence of the disease attributable to this feeding. The

intimate association of susceptible trout with trout tumor material in standing water, or with tumor fish in circulating unchanged water, has brought only negative results. The fish tumor has not yet been successfully transplanted, but implants have grown slightly and were alive at the end of three months. The tumor extract is highly toxic to trout when injected into the thyroid region or subcutaneously.

Wild brook trout brought from the wilderness and confined in cement tanks and fed raw heart or raw liver have developed microscopic evidence of the disease by the end of the first year, and visible carcinoma between the first and second year. The feeding of cooked liver retarded the process. Spontaneous regression occurred in a high percentage of the meat fed fish by the end of the second year. Similar trout fed upon marine fish, vegetable food, or a combination of mussels and live maggots, retained their normal thyroids for eighteen months; then certain individuals developed the disease.

VIII. Either of the elements iodine, mercury, or arsenic, dissolved as salts in the water in which the fish are living interrupts the progress of the disease and restores the thyroid epithelium to a condition approximating the normal. Recognizable effects are produced within a few days. Visible tumors are markedly affected and may be much reduced in size. Iodine and mercury are effective when introduced into the digestive tract as well as through the medium of the water. Negative results were obtained with thymol by both these methods of administration.

IX. The administration to dogs of mud and water from fish ponds in which thyroid carcinoma was endemic gave suggestive evidence that the water and mud contained an agent capable of producing marked changes in the thyroid. Scrapings from the inside of old wooden fish troughs in which thyroid carcinoma was constantly produced gave positive results. Four dogs were given for six months water to drink in which these scrapings were immersed. All developed marked thyroid hyperplasia and three of them enlarged thyroids. The thyroids of the three control animals remained of normal size. Two of them were normal in structure while one showed slight evidence of hyperplasia, probably referable to a previous experiment.

Rats given for six months mud and water, which had been taken from ponds in which thyroid carcinoma was prevalent and transported several hundred miles, gave negative results. Rats given for four months water from the fish trough scrapings, also transported as above, produced results similar to those obtained with the dogs, but less marked in degree.

X. In the hyperplastic thyroids of three puppies and one adult dog which were given pond mud and water, or water from fish trough scrapings, minute nematode worms were found immediately beneath the capsule or in the substance of the thyroid. The worms were surrounded by connective tissue tubercles. In two instances only remains of small nematode worms were found in the thyroid region of brook trout with carcinoma of the thyroid undergoing regression. If these worms have any etiological significance it must be merely as carriers of a causative agent.

CONCLUSIONS.

1. The disease known as gill disease, thyroid tumor, endemic goiter, or carcinoma of the thyroid in the salmonidae, is a malignant neoplasm.

2. The disease occurs in fish living under conditions of freedom in populated areas.

3. When introduced into fishbreeding establishments it becomes endemic with occasional epidemic outbreaks.

4. Normal fish taken from the wilderness may be made to acquire the disease when placed in fishbreeding establishments where the disease is endemic.

5. The feeding of uncooked animal proteid favors, and the feeding of cooked animal proteid retards the disease as compared with the uncooked. Feeding alone is not an efficient cause. It must be combined with an agent transmitted probably through the water or food, or both.

6. By scraping the inner surface of water soaked wooden troughs in which the disease is endemic, an agent may be secured which from its action upon the mammalian thyroid when administered through drinking water is no doubt the cause of the disease in the fish confined in these troughs.

7. The agent is destroyed by boiling.

8. Fish in all stages of the disease are favorably affected in the direction of cure by the addition to the water supply in suitable concentration of mercury, arsenic, or iodine.

9. The effect of mercury, arsenic, and iodine in carcinoma of the thyroid in fish and the subsequent positive experiments with metals in mammalian cancer are probably the expression of a therapeutic relation of these elements to carcinoma.

10. Certain species of the salmonidae have an almost complete natural resistance to the disease.

11. Certain lots of fish of susceptible species show a high degree of immunity to the disease.

12. Spontaneous recovery occurs in a considerable percentage of individuals.

13. Removal from ponds in which the disease is endemic to natural conditions, or a change to more natural food, increases the percentage of spontaneous recoveries.

14. Spontaneous recovery appears to confer a degree of immunity against recurrence.

15. The percentage of spontaneous recoveries in the early stages of the disease appears to be higher than in the later stages of the disease.

16. The incidence of the disease increases with the age of the fish, at least up to five years.

17. Thyroid enlargement and changes presenting at the end of five months a picture of diffuse parenchymatous goiter were induced in mammals by giving them water to drink in which had been suspended scrapings from troughs in which the disease is endemic. Control animals which received the same water boiled failed to develop thyroid changes. That these enlargements and changes are the first stages in mammals of the same disease which occurs in the fish inhabiting the troughs from which the scrapings were obtained, is an inference which we believe further experiments will justify.

18. The disease is endemic in a very high percentage of all trout hatcheries in the United States.

19. The occurrence of the disease in wild fish, its introduction into fish cultural stations, its localization in certain troughs or water supplies, the method of its spread, its transmission to mam-

mals, the efficiency of three well known inorganic germicides in the treatment of the disease, the destruction of the agent by boiling, the phenomena of spontaneous recovery and immunity, strongly indicate that the agent causing the disease is a living organism.

20. No evidence has yet been produced to indicate the direct transmission of the disease from individual to individual.

21. In many of its phases the disease is identical with endemic goiter. As there is no line of demarcation between what is called endemic goiter and what we believe we have clearly shown is cancer of the thyroid, we hold that endemic goiter and carcinoma of the thyroid in the salmonidae are the same disease.

THIRD ANNUAL REPORT

OF THE

Department of State Fire Marshal

From January 1, 1913, to December 31, 1913

THOMAS J. AHEARN
State Fire Marshal

TRANSMITTED TO THE LEGISLATURE FEBRUARY 13, 1914

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STATE OF NEW YORK

No. 27.

IN SENATE

FEBRUARY 13, 1914.

THIRD ANNUAL REPORT OF THE DEPARTMENT OF THE STATE FIRE MARSHAL.

To the Legislature of the State of New York:

In accordance with the provisions of section 371 of the State Fire Marshal Law, I herewith respectfully transmit to your honorable body my third annual report, being a full account of the proceedings of this Department, with statistics, for the period from January 1, 1913, to December 31, 1913, and including also such recommendations with reference to amendments to the law as in my judgment are desirable.

THOMAS J. AHEARN,
State Fire Marshal.

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PART I.

TOPICS.

[7]

PART I.

TOPICS.

FIRE PREVENTION.

Actual statistics given state the fire losses in this country and Canada for 1913, compiled to the middle of December, amount to nearly \$207,000,000 as compared with \$216,000,000 in 1912, \$229,000,000 in 1911, \$222,000,000 in 1910.

These figures, while stupendous in their proportions, furnish extremely interesting study to the careful observer of fire prevention.

Taking into consideration the added cost of prevention, the figures soar into hundreds of millions of dollars.

If you intend to adhere strictly to fire prevention you must observe:

First.—Physical improvement of fire hazard in the community.

Second.—Moral improvement of fire hazard in the community. (The first item covers the definition of the widest limit, with a mandatory requirement well defined, for all new buildings.)

Third.—The improvement and protection of old buildings.

Fourth.—A forced and compulsory correction, to a reasonable extent, of all buildings now dangerous; this having been accomplished with an expansive idea, the strictest regulation should be given to the more congested areas corresponding to the increase of the fire hazard.

You will remember "that all fires are of the same size at the start." It was said by a man in the building at the time of the fire in the capitol at Albany, the financial loss of which was about \$6,000,000, to say nothing of the loss of documents and priceless records, "When this fire started it could have been put out with a pail or two of water. We searched in vain for anything to serve the purpose. The night watchman ran down stairs to sound the alarm. He found none in the building, and in the meantime

the fire was gaining rapid headway and we were waiting for the department to arrive."

This building was not equipped with alarm, chemicals, or even pails of water. It has since, by order of the State Fire Marshal, been fully equipped with standpipes, hose, chemicals, pails and other fire-fighting apparatus.

It was said "Why, it is a fireproof building, it cannot burn." It did, however. There is too much confidence placed in fireproof buildings. A "furnace" is fireproof exactly the same as a building is fireproof, but the contents of each will burn fiercely just the same and produce oftentimes many million dollars' loss and untold lives be sacrificed.

Many times this Department places an order for a fire-escape on a building — the owner or agent comes to us with the argument that it is not needed, that the building is fireproof and consequently the escape unnecessary. Buildings may be "fireproof," *but what about the people?*

There are always enough inflammables in a fireproof building to keep on a full head of steam on one of our ocean liners. If our municipalities will enact and enforce improved and safe methods of building construction and cause removal and reconstruction of existing structures which constitute, because of their faulty construction, a menace to adjoining properties, our cities will be comparatively free from the imminent conflagration which now threatens them. Eliminate defective chimney flues, unprotected and external and internal openings, excessive areas, weak walls, combustible roofs, prohibit the storage of rubbish and regulate the handling and possession of all inflammable liquids and oils.

We are working along a correct line on conservation — our forests, water power and other natural resources are given careful attention; we are not, however, conserving our property, and, in consequence, our financial condition, by fire prevention.

Why should it be necessary that the sum of \$250,000,000 annually should be paid for fire losses and protection? It has been said that our average fire loss is a national disgrace.

If the citizens of each town and city would elect such representatives who will have a civic pride in reducing the fire losses

of their respective communities by appointing a committee on fire prevention who will study the conditions and awaken their associates to a realization of individual responsibility, then let each individual feel himself obligated to do something toward reducing the fire loss and waste, to urge action by the educational bodies in schools that the children may be taught the chemistry of fire, its causes, how to guard against them and how to extinguish them while waiting for the fire department to arrive — the simplest remedies have a most telling effect.

The comparison between our country and Europe shows that we are lavish in extinguishing fires but niggardly in preventing them. The average loss per capita in Europe is \$0.33, while the average loss in this country is \$2.51.

The vigilance of this Department has not in the least been relaxed since its general introduction in the State service, and we prescribe and recommend the construction of real fireproof buildings, real fireproof windows and doors, real automatic sprinklers — not partial or ineffective equipments or perforated pipes — standard fire hose and real fire-fighting apparatus, and thus through the whole field of fire protection.

The inspections are most thorough, investigating and reporting upon, in minutest detail, anything which has a bearing on fire hazards in buildings in which any number of people live or congregate.

The recent disasters in which so many lives were lost prove the theory that no half-way measures should be permitted toward the protection of the lives of the hundreds of thousands of the toilers of our land, and where these are found there will be the additional hazard which must necessarily be met in order that proper conservation should be had of these lives and, secondarily, the property.

COMBUSTIBLES AND EXPLOSIVES.

Combustibles in this report will apply to all inflammable material which, by reason of chemical process accompanied by the evolution of light and heat, commonly the union of substances with oxygen and by slower oxidation with animal or vegetable solid compound, is liable to produce sufficient heat and an inflammable condition.

In this connection we will refer to petroleum, naphtha, gasoline or any refined oils.

Explosives will apply to any chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator, of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects to contiguous objects or of destroying life, limb or property, but not including colloidized nitro-cellulose in sheets or rods or grains not under one-eighth of an inch in diameter, wet nitro-cellulose containing 20 per cent. or more moisture, and wet nitro-starch containing 20 per cent. or more moisture.

A few figures taken from statistics might be of information and interesting reading to those interested in explosives.

SMOKELESS POWDER.

Total production in 1909 was 6,315,167 pounds, valued at \$4,292,984, an increase over the previous year of nearly 3,000,000 pounds.

Production of guncotton is something like 400,000 pounds, valued at \$224,660.

Production of dynamite and permissible explosives in 1909 was 204,763,299 pounds, valued at \$19,562,955.

Averaging the increase every five years from statistics gathered since 1899 the increase in explosives would amount at the rate of 74,000,000 pounds per year.

It will be interesting to note the statistics which will be made public in the year 1914 by the Bureau of Census, Department of Commerce, Washington, D. C.

For general purposes, manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantity, of such nature or in such packing that it is impossible to produce a simultaneous or a destructive explosion of such units to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by detonator, such as fixed ammunition for small arms, fire-crackers, safety fuse, matches, etc.

We will refer to dynamite, guncotton, nitro-glycerine or any compound thereof, and any gunpowder or fulminate or substance intended to be used as exploding or igniting the same to produce a force to propel missiles or to rend apart substances.

This subdivision of the Department of State Fire Marshal is practically in its infancy. Sections 358 to 364, inclusive, of chapter 453 of the Laws of 1912 in itself is an innovation, and considerable time must necessarily elapse before this law can secure State-wide enforcement.

For years past hundreds of explosions have occurred by reason of ignorance or carelessness in the handling of dynamite or other high explosives, resulting in the loss of life or of maimed and bruised bodies, not mentioning the loss of millions of dollars by careless handling and storage.

I might mention in this connection that I favor legislation requiring a condition of fitness in the person or persons handling high explosives, believing that better and less hazardous results will be obtained if such conditions existed and recommended the bill now pending before the Legislature requiring examination by the State Fire Marshal.

The consumption of gasoline is yearly increasing by reason of the increase in the motor car manufacture, and the total disregard of safety to the populace generally by dealers throughout the entire State, especially with regard to storage, prompts the interference by this Department.

Gasoline and naphtha should in all cases be buried underground in hermetically sealed metal tanks and so the top thereof shall be at least two feet below the level of the ground and at a safe distance from any and all buildings, the distance required to be governed by the surrounding conditions.

The tanks so constructed should be connected by underground piping to the building in which the oil is to be used or sold.

Wherever physical or structural conditions make it impossible to place underground a storage tank for the storage of volatile inflammable oils, a metal storage tank may be placed above ground at a safe distance from both building and highway, such distance to be regulated by permit from the Department of State Fire Marshal, provided such tanks are of approved type and construc-

tion and are surrounded by a wall of concrete, forming an inclosure capable of holding the entire contents of the tank, and provided that the quantity of volatile inflammable oil to be stored shall not exceed 50,000 gallons.

Relative to tanks for benzine for dyeing and cleaning establishments and other mercantile lines of a similar character, the same conditions govern as described above.

The capacity of the tanks for the storage of kerosene, naphtha and gasoline and other inflammable oils should be controlled and under the immediate supervision of the Department of State Fire Marshal and a proper distance table should be adopted whereby such tanks may not be located or maintained except at a safe distance from all buildings and highways.

A new source of revenue for the State, variously estimated at \$50,000 to \$60,000 yearly, will be derived eventually from the tax on magazines containing explosives, as provided by the last Legislature in an act "for the regulation of the sale, storage and transportation of explosives," and known as sections 359 to 364 of chapter 453 of the Laws of 1912, inclusive.

The following is a schedule of license fees on magazines containing explosives:

Second class magazines, containing not over 50 lbs....	\$5 00
First class magazines, grade A, containing over 50 lbs. and not exceeding 10,000 lbs.....	10 00
First class magazines, grade B, containing over 10,000 and not exceeding 20,000 lbs.....	15 00
First class magazines, grade C, containing over 20,000 lbs. and not exceeding 30,000 lbs.....	20 00
First class magazines, grade D, containing over 30,000 lbs. and not exceeding 300,000 lbs.....	25 00

Ninety-five per cent. of the dealers handling explosives have them stored in improvised magazines wholly inadequate for the protection of life and surrounding property.

STORING AND HANDLING OF EXPLOSIVES.

In order that the demands of the users of explosives may be promptly supplied, it is necessary that manufacturers, trans-

porters and distributors maintain proper and adequate storage facilities. The necessity therefore arises of having properly constructed magazines in which may be stored large quantities of explosives.

High explosives should be stored in dry, well-ventilated magazines located in isolated spots and surrounded by high banks, if possible. These magazines should be both bullet and fireproof, and the temperature in them should not exceed 80 degrees F. Brush, weeds and high grass should be trimmed back as far as practicable from the magazine.

A bullet-proof magazine and the construction thereof depend largely on the calibre and power of the rifles used in that particular locality.

A cheap dynamite magazine for contracting or temporary trade may be built of one-inch boards nailed to studding. The inside of the building should be lined with one-inch boards forming a space from six to eight inches between the inner and outer boards, this space to be filled from the sill to the plate with coarse sand. The outside of the magazine should be covered with No. 24 or 26 black iron or galvanized iron. Good ventilation should be provided.

Portable magazines can be bullet-proofed by laying one course of brick in cement mortar inside the magazine, or putting a wooden lining of seven-eighths-inch matched boards nailed to studding about four inches to eight inches from the inside of the magazine and filling this space (four inches to eight inches) from the floor to the plate with coarse sand.

When smokeless powder is used in high power rifles such as the government Springfield, it takes eleven inches of dry sand to absolutely bullet-proof a sand-filled magazine.

When the 30-30 Winchester, or equivalent, is the strongest rifle in common local use, eight inches of sand filling is sufficient.

When the rifle ordinarily used is not heavier than the .32 calibre, six inches of sand will bullet proof the magazine.

Permanent magazines for dynamite storage should be built of brick or concrete.

Never under any circumstances store detonators and explosives in the same magazine.

The keys of a magazine should be in charge of one man who alone should be responsible for the proper disposition of the explosives.

THAWING.

One of the most prolific sources of trouble with high explosives is the attempt to use them when they are frozen or chilled.

Nearly all of our high explosives, with few exceptions, may freeze and become insensitive at temperatures between 45 and 50 degrees F., but if the proper detonator is used with them they can be completely detonated even when frozen.

When high explosives are completely frozen they are hard and rigid — a condition easily recognized, but it requires a careful examination to determine whether or not they are partially frozen or chilled. They will not, with the above exceptions, do good work even if chilled, and great care should be taken to see that they are in a thoroughly thawed condition when used. Frozen dynamite will thaw out completely in a comparatively short time if it is subjected to a temperature of 80 degrees F., and the cartridges so arranged that the heat can reach them on every side.

Dynamite freezes at temperatures higher than those which freeze water and therefore provides arrangements for thawing it. Frequently, however, especially in the spring and fall when the days are warm and the nights cool, the necessary care and attention are not given to this very important matter. Only by careful inspection at all times and by the adoption of the best thawing methods can the use of properly thawed dynamite be insured.

In adopting a proper thawing device, it is necessary to consider safety, efficiency and its applicability to the work in hand. Stationary thaw houses may be heated by exhaust steam, hot water or manure. These are considered by the Department improved if made both bullet and fireproof. Fresh manure as a thawing agent is inexpensive and convenient but is efficient only when plenty of time can be given to thawing, as the dynamite cartridges must not be exposed directly to it, but the closed cases buried in it or the walls of a specially designed box or magazine be lined with it.

I trust that the danger of the thawing devices both from the

crude as well as the more improved methods may be greatly modified if not practically eliminated in the near future.

A manufacturer of explosives has recently demonstrated with marked success a high explosive, which, having been chemically treated is rendered impervious to cold and can be used with equal effectiveness in a freezing temperature. If found by further demonstration to be effective in practical use in the extremely cold northern climate, will do away with a large portion of the danger as no thawing devices will then be necessary.

The most important consideration of the storage of explosives is the prevention of explosions. If this is accomplished no damage to life and property can result. Since absolute prevention is impossible, certain precautions must be taken to prevent damage should an explosion occur. When it is necessary to make repairs or alterations in a magazine, all explosives should be carefully removed and the magazine thoroughly washed.

All tools used in repairs should be of wood or brass. The driving of nails into the floors of old buildings that have been used in the manufacture of explosives has resulted in serious accidents.

Magazines should be kept absolutely clean and the floors free from grit and dirt. The ground around the magazine should be kept free from rubbish, leaves and dead grass, and other material liable to become inflammable.

Artificial heat of any kind should not be introduced into the magazine. Each magazine, regardless of size, should be marked in legible letters on the exterior of the building six inches or more in height: DYNAMITE — EXPLOSIVES — DANGEROUS.

Section 359 provides the quantity that may be lawfully kept or stored with reference to distances from nearest highway or inhabited building. It also provides that where same are protected by either natural or artificial barricade, the distance may be reduced one-half.

By natural barricade is meant an elevation protecting the magazine in such manner that any straight line drawn from the top of any side wall of the factory building or magazine to any part of the building to be protected will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the factory building or

magazine to any point twelve feet above the center of the highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distance given in section 359 may be reduced one-half.

An efficient artificial barricade is generally constructed of earth or sand, and in the construction care should be taken not to use large stones or other material that might be projected in large masses in the event of an explosion. The earth or sand is usually held in place by heavy studding and braced and clamped by heavy iron bands or rods.

The barricade should be not less than three feet wide on the top with a natural slope on both sides, the inner slope reaching within a few feet of the magazine; the bottom not less than six feet.

TRANSPORTATION.

Whenever explosives are not hauled in a covered wagon, they must at all times be covered with a tarpaulin. Section 364 provides that every vehicle while carrying explosives shall display upon an erect pole on the front end of such vehicle and at such height that it shall be visible from all directions, a red flag with the word "DANGER" printed, stamped or sewed thereon in white letters. Such flag shall be at least eighteen inches by thirty inches in size, and the letters thereon shall be at least twelve inches in height.

a. It shall be unlawful for any person in charge of a vehicle containing explosives to smoke in or upon such vehicle, to drive the vehicle while intoxicated, to drive the vehicle or to conduct himself in a careless or reckless manner, or to load or unload such vehicle in a careless or reckless manner or while smoking or intoxicated.

b. It shall be unlawful for any person to place or carry, or cause to be placed or carried, in or upon any vehicle containing explosives any metal tool or other piece of metal.

c. It shall be unlawful for any person to place or carry in or upon a vehicle containing explosives any exploders, detonators, blasting caps, or other explosive material, or to carry in or upon any such vehicle any matches or any mechanical device for producing spark, flame or heat.

Nothing contained in this article shall apply to explosives while being transported upon vessels or railroad cars in conformity with the regulations adopted by the Interstate Commerce Commission.

Covering the inspection of the State, the Fire Marshal has been appalled at the careless manner in which high explosives are handled and stored. Tons of dynamite have been stored in the heart of our most beautiful and flourishing cities, and which by a mere accident might be exploded any moment, wrecking blocks and thus damaging millions of dollars in property, to say nothing of countless precious lives. He has caused to be removed these dangerous explosives to a safe distance from both dwelling and highway.

Illustrating the total disregard of the public welfare, out of a total of 4,000 reported dealers only about 10 per cent. were storing in proper and safe magazines; the balance were storing in sheds, barns, dwelling houses, in fact any convenient place to the user, with total disregard to life and property. Many disastrous explosions have thus occurred.

Section 359. Regulations regarding quantity, distance from buildings and highways, with capacity of magazines.

COLUMN 1. Quantity that may be lawfully kept or stored from nearest building or highway.		COLUMN 2. Distance from nearest building.	COLUMN 3. Distance from nearest highway.
Lbs.	Lbs.	Feet.	Feet.
Over 100 and not over 200.....		360	220
Over 200 and not over 300.....		520	310
Over 300 and not over 400.....		640	380
Over 400 and not over 500.....		720	430
Over 500 and not over 600.....		800	480
Over 600 and not over 700.....		860	520
Over 700 and not over 800.....		920	550
Over 800 and not over 900.....		980	590
Over 900 and not over 1,000.....		1,020	610
Over 1,000 and not over 1,500.....		1,060	640
Over 1,500 and not over 2,000.....		1,200	720
Over 2,000 and not over 3,000.....		1,300	780
Over 3,000 and not over 4,000.....		1,420	850
Over 4,000 and not over 5,000.....		1,500	900
Over 5,000 and not over 6,000.....		1,560	940
Over 6,000 and not over 7,000.....		1,610	970
Over 7,000 and not over 8,000.....		1,660	1,000
Over 8,000 and not over 9,000.....		1,700	1,020
Over 9,000 and not over 10,000.....		1,740	1,040
Over 10,000 and not over 20,000.....		1,780	1,070
Over 20,000 and not over 30,000.....		2,110	1,270
Over 30,000 and not over 40,000.....		2,410	1,450
Over 40,000 and not over 50,000.....		2,680	1,610
Over 50,000 and not over 60,000.....		2,920	1,750
Over 60,000 and not over 70,000.....		3,130	1,880
Over 70,000 and not over 80,000.....		3,310	1,990
Over 80,000 and not over 90,000.....		3,460	2,080
Over 90,000 and not over 100,000.....		3,580	2,150
Over 100,000 and not over 200,000.....		3,670	2,200
Over 200,000 and not over 300,000.....		4,190	2,510
Maximum allowed.			

WATER SUPPLY AND FIRE-FIGHTING APPARATUS.

Under chapter 204 of the Laws of 1913 the Department was given jurisdiction over "the adequacy and sufficiency of water supply and fire apparatus, and their inspection for fire-fighting purposes."

It will be conceded that these are most vital and important subjects in the work of this Department, as they go hand in hand and rank equally in the problem of fire fighting.

I regret exceedingly that this Department has not been given the proper force nor sufficient appropriation specially to pursue

these matters. I should like to establish a special bureau for such work. There should be inspectors constantly traveling through the State, especially in the rural communities, to ascertain their condition in these matters. In the course of time it might then be possible to establish standards for villages and cities of the different classes. No doubt in incorporated villages, as a rule, they are looked after at least after a fashion. No village should be permitted to incorporate unless these important matters are properly covered. So that, in the main, the subjects of water supply and fire apparatus for fire-fighting purposes would have to be investigated in unincorporated villages and towns.

I have, therefore, been unable to get full data, and have been compelled to rely upon the information furnished by the press upon these subjects and through letters of inquiry from this Department.

I submit the following table, however, as a contribution on the subject.

It is surprising that in this great State, and in advanced stage of the problem of fire fighting, there should still be localities in which bucket brigades are the only means for fighting the flames.

I am strongly in favor of motorizing apparatus, as experience has shown that it is best fitted for speedily fighting the fire danger.

Adams, Jefferson county.—Insufficient water and apparatus.

Amenia, Dutchess county.—Only buckets and a well to combat the flames on the Frost farm.

Binghamton, Broome county.—South side, Fifth ward, without proper fire protection because not enough pressure to bring water to first floor of houses.

Brockport, Monroe county.—Lack of water. Inability to play a stream for more than twenty minutes.

Brewerton, Onondaga county.—No fire apparatus of any kind, and no organized fire brigade, people coming from a distance with water pails, organizing a bucket brigade and getting water out of the Oneida river.

Bridgewater, Oneida county.—No water system and no fire department.

Barker, Niagara county.—Insufficient water and apparatus.

Campbell, Steuben county.—Village without fire protection, ladder and bucket brigade formed.

Croton Lake, Westchester county.—No water service.

Catskill, Greene county.—Fine fire department and water supply sufficient, but fire-fighting apparatus in bad shape and insufficient equipment.

Canisteo, Steuben county.—Water supply insufficient.

Cropseyville, Rensselaer county.—Insufficient water supply and fire apparatus.

Colonie, Albany county.—All that section of township directly south of the city of Watervliet is absolutely without fire protection.

East Nassau, Rensselaer county.—No fire-fighting apparatus, and a great scarcity of water. People coming from Nassau and in automobiles to render assistance.

Eddyville, Ulster county.—Bucket brigade.

Elmsford, Westchester county.—Badly in need of sufficient water supply and adequate fire apparatus.

East Irvington, Westchester county.—Insufficient water supply.

Eaton, Madison county.—Lack of water. All available water at the County Home building fire obtained through a small pipe in a barrel, two or three strokes of the engine would empty the barrel and the men would have to wait for it to fill.

Eden, Erie county.—No fire department and no water supply.

Ferndale, Sullivan county.—No water power, no hose. Bucket brigade formed and 1,500 men standing helplessly by at a fire June 19, 1913.

Frewsburg, Chautauqua county.—No fire-fighting facilities; bucket brigade organized; small steamer and chemical sent from Jamestown.

Fulton, Oswego county.—Lack of water pressure from city mains.

Gowanda, Cattaraugus county.—No water facilities. Cattaraugus county side of village without proper protection.

Hillview, Rensselaer county.—No fire-fighting facilities.

Huntington, Suffolk county.—Insufficient water supply.

Hart Lot, Onondaga county.—Lack of water supply and fire apparatus.

Haverstraw, Rockland county.—Inadequate supply of hose and hydrants furnishing bad service.

Knowlesville, Orleans county.—No adequate means for fighting fire; bucket brigade formed.

Kendall, Orleans county.—No apparatus for effective fire fighting.

Lowville, Lewis county.—Beaver Falls village has no fire department; bucket brigade formed.

Leonardsville, Madison county.—No fire department; 400 inhabitants; bucket brigade.

Larchmont, Westchester county.—Insufficient main in old part.

Lynbrook, Nassau county.—Poor water pressure. Necessary to telephone three times to Far Rockaway Station before proper pressure secured.

Lockport, Niagara county.—Lack of water; bucket brigade formed on farms of Smith & Vicary.

Minetto, Oswego county.—No water pressure; bucket brigade formed.

Middletown, Orange county.—At fire of Children's Home on Houston Heights one line of hose threw a stream of water fifteen feet in the air without the use of the steamer, and one line attached to the steamer threw a thin stream sixty feet — like a spray rather than a stream. With two lines attached to steamer streams were thrown twenty feet and water coming in jerks from the nozzles caused the steamers to suck the pipes empty, showing insufficient water supply at that time.

Machias, Cattaraugus county.—Public school building burned. Fine system gravity water-works, paying supply company \$400 for about twenty hydrants; no fire apparatus and no hose. Proposition to buy hose twice voted down. School district considerably larger than fire district.

New Rochelle, Westchester county.—Low water pressure and bursting hose September 15, 1913.

Oneida, Madison county.—Water supply doubtful. Lacking in fire-fighting machinery.

Pattersonville, Schenectady county.—No means of fire fighting

Port Chester, Westchester county.—Excellent fire department which has given the village two pieces of apparatus. Insufficient fire apparatus provided by the community.

Riverhead, Suffolk county.—Insufficient water pressure July 9, 1913.

Smyrna, Chenango county.—Well-organized fire department and fire-fighting apparatus needed.

Varna, Tompkins county.—No fire protection July 21, 1913.

West Elmira, Chemung county.—No fire protection June, 1913, although part of Elmira, and application made to Elmira fire commissioners for protection.

Watervliet, Albany county.—Insufficient water pressure.

FIRES.

From the tables annexed it will be found that during the past year in Greater New York there were 12,955 fires as against 15,633 in 1912, with a total loss for 1913 of \$7,467,297 as against \$9,069,580 in 1912, making an average loss of \$579 per fire in the year 1913 as against \$580 per fire in 1912.

In the rest of the State there were last year 16,905 fires as against 12,835 in 1912, with a total loss of \$16,654,575 in 1912 as against \$12,850,954 in 1913, making an average loss of \$985 per fire for 1913 as against \$1,000 per fire in 1912.

The apparent increase is due to the fact that reports have been more accurately kept and more fully sent in by my assistants in 1913 on account of chapter 432 of the Laws of 1913, making it a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for any assistant to neglect his duty in the matter. Furthermore, by chapter 433, Laws of 1913, it is now made the duty of insurance companies to report all fire losses on property within the State irrespective of the amount. As a result, fire losses much below \$100 in each case, which have never before been reported, are now reported as fully as though the loss ran into the thousands.

Fires outside of Greater New York damaged or destroyed in

	1913	1912
Dwellings	4,036	4,317
Offices and dwellings	343	493
Hotels	174	239

Showing a marked reduction in 1913 over 1912.

The causes of these fires in the State in part were as follows:

Overheated stoves	863
Defective chimneys	767
Careless use of matches.....	569
Lamps, lanterns and candles.....	397
Children using matches.....	350
Lightning	210
Careless smoking	357
Defective gas fixtures.....	192
Overheated furnaces	146
Defective electric wiring.....	188
Thawing pipes	32
Locomotive sparks	157
Hot ashes	116

It will be observed that carelessness and negligence are still the greatest contributing causes to the fire loss.

I therefore again call attention to the benefit that would arise toward the reduction of fire dangers if the provisions of section 1530 of the Penal Law were enforced, defining a public nuisance and declaring it to be a misdemeanor "in any way to render a considerable number of persons insecure in life or in the use of property." Its enforcement would make the public generally more careful and so aid in keeping down the waste.

In the year 1912 there were in Greater New York 61 arrests for arson and 14 convictions; in 1913, 90 arrests, 54 convictions, 40 sentences and 34 cases pending. In the rest of the State during 1912 there were 46 arrests for arson, 19 convictions and 18 cases pending; in the year 1913, 93 arrests, 25 convictions, 22 sentences and 24 cases pending. Most of the cases of arson were in the counties of Albany, Erie, Essex, Fulton, Oneida, Rensselaer, Saratoga and Suffolk; the largest number, 17, being in Albany county; the next, 10, in Erie county; in Suffolk county, 8; in Saratoga county, 7, and in Rensselaer county, 5.

In the year 1913 the number of fires in the counties given below was reduced, as shown:

County	1912	1913
Albany	660	534
Allegany	70	52
Cattaraugus	151	112
Cayuga	124	76
Clinton	62	47
Dutchess	140	94
Erie	1,079	976
Onondaga	270	243
Ontario	80	59
Orange	149	130
Schenectady	204	176
Steuben	246	226
Tioga	50	33
Tompkins	62	50
Wayne	73	59
Westchester	648	556

The counties showing fires in excess of 100 for the year 1913 were Albany, Broome, Cattaraugus, Chautauqua, Chemung, Erie, Fulton, Herkimer, Jefferson, Monroe, Montgomery, Oneida, Onondaga, Orange, Oswego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Steuben, Ulster and Westchester.

During the past year the deputies and chief engineer went into the different parts of the State and addressed the chambers of commerce and other public bodies, spreading a knowledge of the State Fire Marshal Law upon the hazards and the workings of this Department, with a view toward better co-operation among them all. I beg leave to annex a paper submitted by me at the Fire Chiefs' Convention in New York city.

PART II.

Amendments.

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PART II.

Amendments.

1. Insurance companies should be compelled to inspect thoroughly all property and contents offered for insurance and to investigate the character of the applicants under penalty of misdemeanor.

2. Numerous requests have come to this Department from different parts of the State for relief against the stringency of the Anti-Smoking Law. This law should be amended so as to give the State Fire Marshal the power to issue a certificate, in a proper case, allowing smoking under conditions approved by him.

3. As far as possible, paid fire departments should be established.

4. As far as possible, apparatus throughout the State should be motorized.

5. Private water companies should be compelled by law, under penalty, at all times to furnish and maintain for fire-fighting purposes an adequate water supply with sufficient pressure to reach the highest point.

6. Fire couplings should be standardized so that they may be used, in case of necessity, in any locality.

7. Insurance companies should be compelled to cancel policies on buildings on which violations are placed by orders of the State Fire Marshal, when such orders are not complied with by the owner, lessee or occupant of the building.

8. There should be a penalty provided against the owners of property who allow hazardous conditions to continue to exist after the fire.

9. Power should be given to the State Fire Marshal to search ruins after a fire, wherever necessary, if there is a suspicion of loss of human life, when the owners fail to do so. The cost of such search should be made a first lien on the property.

10. Every incorporated village throughout the State should be

compelled by law to provide for an adequate fire department and water supply.

11. The law should specifically provide the process for which the cost of demolition or the repair of dilapidated buildings by this Department should be made a first lien against such premises and the manner in which it should be foreclosed or enforced.

12. Wherever possible, municipalities throughout the State should gradually be compelled by law to introduce the high-pressure system for fire-fighting purposes.

13. Any factory or mercantile establishment wherein a number of people are employed below the ground level should have proper access to the street or ground independent of any other exits through the rest of the building.

14. There should be provision made by law for safe, sane and nonsensational instruction at stated periods in the schools of the State, not less than one-half hour each month, on the subject of fire prevention and the careful handling of dangerous material within reach in everyday life.

15. There should be an amendment to section 205 of the General Business Law so as to compel the officers making a semi-annual inspection of hotels to file a copy of their report with the State Fire Marshal within fifteen days after such inspection, and the Attorney-General should be authorized to bring suit against violators of the law on complaint of the State Fire Marshal.

16. Section 305 of the General Business Law should provide that the reports of local inspectors should be filed with the State Fire Marshal, and that he should enforce the penalties prescribed in section 307 for the violation of article 19.

17. In order to avoid a conflict of jurisdiction and promote more effective execution of the law by the State Fire Marshal the following laws should be repealed:

(a) Section 124, which gives the State Commissioner of Labor jurisdiction to inspect boilers in factories;

(b) Sections 82 and 83 of the Labor Law, as to fire-escapes on factory buildings;

(c) Section 125 of the Labor Law, as to handling, storage, sale and use of high explosives and gunpowder;

(d) Subdivisions 2 and 3, section 452, Educational Law, as to fire-escapes on school buildings;

(e) Section 453 of the Educational Law, as to fire-escapes on school buildings;

(f) Sections 302, 303 and 304 of the General Business Law relative to petroleum and its products and oils used for heating and illuminating purposes;

(g) Section 83, a fire alarm signal system and fire drills,—so as to leave all these matters within the exclusive jurisdiction of the State Fire Marshal.

18. Sufficient fire protection should be afforded inmates of prisons no less than those in other institutions.

19. Fire insurance companies, in their reports of losses, should be compelled to state in each case the name of the adjuster through whom they were settled.

20. No fire loss should be paid by insurance companies until thirty days after report of the fire to the State Fire Marshal and on a certificate from him that there is no investigation pending as to the cause of the fire.

21. The inspectors and assistants of this Department should be made peace officers, with the power of arrest under the law, as experience shows that such power would often be of the greatest benefit through the possibility of instant action on their part.

22. The field officers of insurance companies should be made assistants to this Department, and the reports of inspections made by them on surveys for insurance purposes should be sent directly to this Department, or, following the Wisconsin plan, be first transmitted to such insurance companies to be revised by them, and then sent to the State Fire Marshal for action. As a result, these field officers would be additional aids to the Department, and there would be a wider and more numerous inspection of premises than is now possible with the limited force at the disposal of the Department for such purpose.

23. There should be a law passed requiring a certificate of fitness from the State Fire Marshal, to be issued after an examination to test the competency of applicants, before any person or persons will be permitted to handle explosives for blasting or other purposes.

24. There should be an amendment to the law of arson, either as a separate degree of that crime or as a misdemeanor, punishing

criminal or culpable negligence resulting in loss of life or damage to property by fire. It is extremely difficult, according to the testimony of every district attorney in the State, to convict of arson, and if such a law as indicated were adopted there would be a marked decrease in what may not technically amount to arson but practically has the same result.

ROSTER OF OFFICERS AND EMPLOYEES OF THE
STATE FIRE MARSHAL'S DEPARTMENT ON DECEMBER 31, 1913.

Thomas J. Ahearn, State Fire Marshal.
George F. Roesch, First Deputy.
Eugene D. Stocker, Second Deputy.
James McGinty, Secretary of the Department.
Patrick J. Gillespie, Chief Engineer.
John F. Hoey, Chief Inspector.
Charles L. O'Connor, Inspector.
Dennis J. Glennon, Inspector.
J. Lewis Daly, Inspector.
William Oldfield, Jr., Inspector.
Edward F. Henneberry, Inspector.
Herbert M. Hudson, Inspector.
Arthur L. Quinn, Inspector.
Joseph E. Healy, Inspector.
James Kelly, Inspector.
Philip H. Noonan, Inspector.
William J. Jones, Inspector.
Philip Kerrigan, Inspector.
William A. Carroll, Inspector.
Thomas E. Thompson, Inspector.
William H. Furman, Boiler Inspector.
Benjamin F. Siebelt, Boiler Inspector.
John H. Flaherty, Boiler Inspector.
Julian D. Eberhardt, Boiler Inspector.
Edward Hall, Boiler Inspector.
John P. Cox, Cashier.
David Wright, Clerk.

John J. Daly, Stenographer (Confidential).
 Michael L. Sammon, Stenographer.
 Adam E. Rantz, Stenographer.
 John T. Kane, Stenographer.
 Matilda Lique, Stenographer (Assistant Confidential).
 Grover C. Guernsey, Clerk.
 Carolyn G. Bowen, Temporary Stenographer.

FINANCIAL REPORT FOR THE FISCAL YEAR END- ING OCTOBER 1, 1913.

APPROPRIATIONS AND EXPENDITURES.

Appropriations.

Unexpended balance from 1911 appro-	
priation.....	\$11,375 33
Appropriation available October 1,	
1912, official salaries, graded em-	
ployees, traveling expenses, fees and	
office expenses.....	119,020 00
	\$130,395 33

Expenditures.

Official salaries.....	\$49,512 07
Graded employees.....	3,780 69
Traveling expenses.....	13,427 69
Fees.....	7,311 77
Printing.....	2,377 61
Stationery.....	1,565 42
Postage and transportation.....	1,486 56
Office equipment.....	304 04
Telephone and telegraph.....	303 66
Books, etc.....	230 56
Miscellaneous.....	161 16
	80,461 23

Balance on hand, October 1, 1913.....	\$49,934 10
---------------------------------------	-------------

Money received by the State Fire Marshal in payment for magazine licenses and boiler inspections:

Number of magazine licenses paid

for. 240

Received for licenses. \$2,300 00

Number of boiler inspections paid

for. 776

Received for inspections. 3,880 00

\$6,180 00

Paid to the State Treasurer:

Magazine account. \$2,000 00

Boiler account. 3,000 00

\$5,000 00

On deposit to credit of the State Fire Marshal:

Magazine account. \$300 00

Boiler account. 880 00

\$1,180 00

PART III.

Statistics.

[35]

PART III.

Statistics.

TABLE No. 1.

Dilapidated buildings, after inspection, ordered repaired or demolished, January 1 to December 31, 1913:

Total number of buildings inspected.....	113
In addition to compliances mentioned below there were	
buildings demolished since last year.....	17
And buildings repaired since last year.....	8

County	Demolished	Repaired	Pending
Albany	4	3	6
Broome . . . . .	.	.	1
Cattaraugus . . . . .	.	1	.
Chemung	2	.	2
Chautauqua . . . . .	.	.	1
Cortland . . . . .	.	.	1
Columbia	7	8	1
Dutchess . . . . .	.	.	14
Erie . . . . .	.	1	.
Essex . . . . .	.	1	3
Herkimer . . . . .	.	1	1
Jefferson	1	.	2
Livingston . . . . .	.	1	3
Lewis . . . . .	.	.	1
Monroe . . . . .	.	2	1
Montgomery . . . . .	.	.	2
Nassau . . . . .	.	.	1
Ontario	1	.	3
Onondaga . . . . .	.	1	1
Oneida	1	1	.
Orange	2	.	1
Oswego	1	1	1

County	Demolished	Repaired	Pending
Otsego . . . . .	.....	.....	2
Rockland . . . . .	.....	1	1
Rensselaer	5	2	.....
Schenectady . . . . .	.....	.....	1
Saratoga	1	.....	.....
Schuyler . . . . .	.....	.....	1
Schoharie . . . . .	.....	1	.....
Suffolk . . . . .	.....	1	.....
Steuben . . . . .	.....	.....	4
St. Lawrence . . . . .	.....	.....	1
Westchester	1	2	3
Totals	<u>26</u>	<u>28</u>	<u>59</u>

TABLE No 2.

SHOWING ORDERS REQUIRING INSTALLATION OF FIRE APPLIANCES,
EXITS, ETC.

Inspections made, 1913	12,254
Violations were issued consisting of	14,520
Orders issued, after inspection	2,904
Of orders issued there were fully complied with	5,795

In all other cases arrangements have been made for
a speedy compliance.

In addition to above compliances, the orders fully com- plied with from last year inspections were	<u>2,005</u>
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TABLE No. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Disapidated.	Rubbish.	Booths.
ALBANY.									
Albany	32	10	20	30	19	.....	.....	2	.....
Cohoes	28	12	7	16	15	4	4	7	1
Green Island	5	2	2	2	2	.....	3	.....	.....
Watervliet	6	6	.....	.....	.....	.....	6	.....	.....
ALLEGANY.									
Angelica	8	3	2	3	8	.....	.....	4	.....
Belmont	1	.....	1	.....	1	.....	.....	.....	.....
BROOME.									
Binghamton	31	3	22	28	28	13	1	16	1
Lestershire	4	.....	3	4	4	.....	.....	.....	.....
Port Dickinson	1	1	.....	.....	.....	.....	.....	1	.....
Union, town of	9	5	9	8	.....	.....	.....	.....	1
CATTARAUGUS.									
Allegany	9	2	6	7	8	3	.....	2	.....
Cattaraugus	4	.....	4	4	3	.....	.....	.....	.....
Little Valley	2	.....	2	2	1	.....	.....	.....	.....
Machias	4	.....	.....	4	4	.....	.....	.....	.....
Portville	2	.....	2	2	2	.....	.....	.....	.....
Salamanca	1	1	.....	.....	.....	.....	1	.....	.....
CAYUGA.									
Auburn	43	1	34	41	34	.....	.....	4	1
Aurora	4	.....	4	4	4	.....	.....	.....	.....
Lake Owasco	2	.....	2	2	2	.....	.....	.....	.....
Moravia	13	3	12	13	6	.....	.....	1	2
Port Byron	1	1	1	1	1	.....	.....	.....	.....
Weedsport	1	1	1	1	1	.....	.....	.....	1
CHAUTAUQUA.									
Cherry Creek	1	.....	.....	.....	.....	.....	1	.....	.....
Dunkirk	1	1	.....	1	1	.....	.....	.....	.....
Jamestown	9	1	9	9	9	.....	.....	1	.....
CHEMUNG.									
Elmira	7	2	3	2	3	.....	2	1	.....
Elmira Heights	1	.....	1	1	1	.....	.....	.....	.....
CHENANGO.									
Bainbridge	1	1	1	1	1	.....	.....	.....	.....
Norwich	12	7	9	10	10	.....	.....	2	2
South Otselic	1	.....	1	.....	1	.....	.....	.....	.....
CLINTON.									
Cliff Haven	28	12	6	27	12	.....	.....	.....	.....
Plattsburg	14	2	11	14	.....	.....	.....	7	2
COLUMBIA.									
Chatham	1	.....	1	1	1	.....	.....	.....	.....
Hillsdale	2	.....	2	2	2	.....	.....	.....	.....
Hudson	44	14	20	20	17	.....	15	5	.....
Kinderhook	1	1	.....	.....	.....	.....	1	.....	.....

TABLE NO. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths.
CORTLAND.									
Homer.....	2		1	1			1		
McGrawville.....	3	2	2	3	3				
DELAWARE.									
Delhi.....	1	1	1		1				
Downsville.....	2		2	1	2				
Fleischmanns.....	2		2	2	1				
Franklin.....	1		1	1	1				
Griffins Corners.....	7		7	5	5				
DUTCHESS.									
Beacon.....	1		1	1	1				
Fishkill.....	1		1	1	1				
Peekskill.....	1						1		
Poughkeepsie.....	62		35	37	29	1	13	11	
Wappinger Falls.....	1			1	1			1	1
ESSEX.									
Lake Placid.....	31		28	29	28	1	1	5	
Ticonderoga.....	17		17	16	17				
ERIE.									
Buffalo.....	106	4	80	87	83	13	1	37	1
East Aurora.....	3		1	2	11				1
Lancaster.....	1		1	1	1			1	1
Springville.....	9		8	9					
Williamsville.....	1	1		1	1				1
West Seneca.....	1		1	1	1				
FRANKLIN.									
Lake Clear.....	3	1	3	3	3				
Loon Lake.....	11		11	11	11				
Paul Smiths.....	6		6	6	6				
Saranac Lake.....	27	2	21	27	26			12	
Santa Clara.....	4		4	4	4				
Tupper Lake.....	1		1	1	1	1			
Wawbeek.....	1		1	1	1				
FULTON.									
Gloversville.....	20	1	18	8	8				
Johnstown.....	7	1	5	7	2			1	2
Northville.....	1		1	1				1	
GENESEE.									
Batavia.....	5		4	3	3			3	
LeRoy.....	4		4	4	4				
GREENE.									
Catskill.....	15	4	13	11	14				2
Durham.....	8	6	3	8	2				
East Durham.....	4	4	3	2	3				
East Windham.....	1		1						

TABLE No. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths.
GREENE—Continued.									
Haines Falls.....	2			2	2				
Halcott.....	6	4	5	4					
Halcott Center.....	1	1	1						
Hensonville.....	1	1		1					
Hunter.....	15	5	13	12	7				
Kaaterskill.....	2		2	1	2				
Leeds.....	2	1	2		1				
Palenville.....	5	2	6	1	5				
Sunside.....	1	1	1	1	1				
Earlton.....	3	3		3					
Windham.....	8	7	8		8				
HAMILTON.									
Piseco.....	1		1	1	1				
Spy Lake.....	1		1	1	1				
Wells.....	1		1	1	1	1			
HERKIMER.									
Beaver River.....	1		1	1	1				
Big Moose.....	8		8	8	8				
Darts.....	1		1	1	1				
Dolgeville.....	19	7	11	18	16	1			
Eagle Bay.....	1			1	1				
Frankfort.....	12		8	12	8			3	
Fulton Chain.....	2		2	2	2				
Herkimer.....	8		5	7	7		1	1	
Ilion.....	1		1	1					
Lake, Fourth.....	7		6	7	7				
Lake, Third.....	1		1	1	1				
Little Falls.....	67	4	48	53	46			16	4
Middleville.....	2		2	2	2				
Newport.....	2		2	2	2				
Old Forge.....	5		4	5	5				
West Winfield.....	1	1					1		
JEFFERSON.									
Adams.....	4		4	4	4				
Alexandria Bay.....	8		7	8	7				
Cape Vincent.....	5		5	5	5				
Carthage.....	13		10	10			1	4	
Chaumont.....	2		2	2	2		1		
Clayton.....	7		6	6	6		1		
Deferiet.....	1		1	1	1				
Dexter.....	2	1	1	1	1				
Evans Mills.....	1		1	1	1				
Great Bend.....	1	1	1	1	1			1	
Henderson.....	1	1	1		1				
Henderson Harbor.....	1	1	1	1					
Herrings.....	1		1	1	1				
Natural Bridge.....	3		3	3	3			2	
Rodman.....	2		1	2	1			1	

TABLE NO. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths.
JEFFERSON—Continued									
Sacketts Harbor.....	1	.....	1	1	1	.....	.....	.....	.....
St. Lawrence Park.....	1	.....	1	1	1	.....	.....	.....	.....
Theresa.....	2	.....	2	2	2	.....	.....	1	.....
T. I. Park.....	3	.....	3	3	3	.....	.....	.....	.....
Watertown.....	12	.....	12	12	10	.....	.....	3	.....
LEWIS.									
Harrisville.....	1	.....	.....	.....	.....	.....	1	.....	.....
Lake Bonaparte.....	1	.....	1	1	1	.....	.....	.....	.....
Port Leyden.....	4	.....	3	4	4	.....	.....	.....	.....
LIVINGSTON.									
Avon.....	4	1	3	4	3	.....	.....	.....	.....
Dansville.....	8	2	3	4	2	.....	.....	.....	.....
Geneseo.....	2	.....	1	2	1	.....	.....	1	.....
MADISON.									
Earlville.....	2	.....	2	2	2	.....	.....	1	.....
Hamilton.....	9	.....	8	9	8	.....	.....	4	1
Morrisville.....	4	.....	3	4	4	2	.....	.....	1
North Brookfield.....	1	1	1	.....	1	.....	.....	.....	.....
Oneida.....	37	10	18	27	21	.....	.....	11	.....
MONROE.									
Churchville.....	1	.....	1	1	1	.....	.....	.....	.....
Clinton.....	1	1	.....	1	.....	.....	.....	1	.....
Rochester.....	34	7	24	33	31	7	.....	10	.....
Spencerport.....	4	2	.....	2	.....	.....	3	1	.....
MONTGOMERY.									
Amsterdam.....	31	5	25	31	22	.....	.....	8	.....
Fonda.....	4	.....	4	4	4	.....	.....	.....	.....
Fultonville.....	2	1	1	1	1	.....	.....	1	.....
Nelliston.....	1	.....	1	1	1	.....	.....	1	.....
St. Johnsville.....	7	.....	5	6	4	.....	2	.....	1
NASSAU.									
East Rockaway.....	1	1	.....	1	1	.....	.....	.....	.....
Freeport.....	10	3	7	4	8	.....	1	.....	.....
Lynbrook.....	5	.....	5	4	5	.....	.....	1	.....
Roosevelt.....	1	.....	1	1	1	.....	.....	.....	.....
Rockville Centre.....	4	2	3	3	3	.....	.....	.....	.....
NIAGARA.									
Niagara Falls.....	2	1	1	2	2	.....	1	.....	.....
ONEIDA.									
Camden.....	2	1	.....	2	2	.....	.....	1	1
Rome.....	60	.....	51	56	56	.....	.....	6	2
Sylvan Beach.....	5	.....	5	5	5	.....	.....	1	1
Sherill.....	1	.....	1	1	1	.....	.....	.....	.....
Utica.....	145	4	132	143	140	.....	2	25	5
Whitesboro.....	1	.....	1	1	1	.....	.....	1	.....

TABLE NO. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths.
ONONDAGA.									
Baldwinsville.....	9	1	8	8	8			5	
Jordan.....	2	1					2		
Pompey.....	1		1	1	1				
South Bay.....	3		3	3	3				
Syracuse.....	2			2					
ONTARIO.									
Canandaigua.....	23	8	18	18	19		1		
Geneva.....	36	5	26	35	30		1	1	
Hopewell.....	1		1	1	1				
Naples.....	3	1	3	3					
Phelps.....	3		2	2	2		1		
ORANGE.									
Cornwall.....	1		1	1	1				
Middletown.....	2	1		1	1		1		
Newburgh.....	1		1	1	1	1			
Port Jervis.....	25		22	24	20				1
Walden.....	7		6	5	7			2	
ORLEANS.									
Fine.....	1		1	1	1				
Fine View.....	1		1						
OSWEGO.									
Cleveland.....	3		2	3	2				
Constantia.....	3		3	3	3				
Fulton.....	6		6	6	5				
Oswego.....	20	1	15	16	10		2		
Phoenix.....	1	1					1		
OTSEGO.									
Cooperstown.....	7		4	7	6				
Edmeston.....	2	1	2	2	2				
Gilbertsville.....	1	1							1
Oneonta.....	135	21	64	124	41	1	3	22	
Otego.....	1							1	
Richfield Springs.....	1		1	1	1				
Schenevus.....	1	1					1		
PUTNAM.									
Brewster.....	1	1	1	1	1				
RENSSELAER.									
Hoosic Falls.....	3	2	2	3	3			1	1
Rensselaer.....	9	5	1	4	4		5		
Troy.....	1	1	1	1	1				
Valley Falls.....	1			1	1				1
West Sand Lake.....	1		1	1					
ROCKLAND.									
Haverstraw.....	1						1		
Nyack.....	1	1					1		

TABLE No. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths
ST. LAWRENCE.									
Benson Mines.....	1	1	1						
Cranberry Lake.....	2		2	2	2				
Edwards.....	1		1	1	1				
Gouverneur.....	10	2	7	8	8		1		
Newton Falls.....	1		1	1	1				
Ogdensburg.....	2	1		1	1		1		
Potsdam.....	11		10	10	10			1	
Star Lake.....	6		6	6	6				
Wanakana.....	2		2	2	2				
SARATOGA.									
Ballston Spa.....	10		8	10	8			2	
Corinth.....	6			6	1			2	
Mechanicville.....	12	1	6	11	10		1		
Saratoga.....	70	22	54	67	35			7	
Victory.....	1	1					1		
Waterford.....	2	1	1	1	1		1		1
SCHENECTADY									
Schenectady.....	512	498	496		30		1		
Scotia.....	2	1	2	1	2				
SCHOHARIE.									
Carlisle.....	1						1		
Sharon Springs.....	3		1	2	1				1
SCHUYLER.									
Montour Falls.....	1						1		
Watkins.....	17		16	16	15			2	
SENECA.									
Interlaken.....	2		2	2	2				
Kidders.....	1		1	1	1				
Ovid.....	2	1	1	2	1			1	
Seneca Falls.....	20		13	20	20			1	1
Sheldrake Springs.....	2		2	2	2				
Waterloo.....	15	2	12	15	15				
STEBEN.									
Addison.....	1			1	1			1	1
Avoca.....	1		1	1	1				
Bath.....	3		3	3	2				
Hornell.....	18		13	13	12		5	10	
SUFFOLK.									
Amityville.....	7		5	6	4			2	
Babylon.....	10		10	7	9			1	
Bay Shore.....	13		13	10	12			1	
Blue Point.....	4		3	4	4				
Brentwood.....	2	2	1	2	1				
Center Moriches.....	10	1	7	9	8				
Central Islip.....	1		1	1	1				
East Islip.....	1			1					
Greenport.....	4	3	4	4	3				
Islip.....	6	2	4	4	3				

TABLE No. 2 — *Continued.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths.
SUFFOLK—Continued									
Lindenhurst.....	10	6	9	7	9				
Patchogue.....	18	5	15	18	13				
Riverhead.....	2		2	2	2				
Sayville.....	13	5	11	12	11			2	1
Southampton.....	4	2	3	3	1			3	
SULLIVAN.									
Liberty.....	15	1	13	14	12			2	
TIOGA.									
Newark Valley.....	6	2	6	4	5				
Owego.....	2	1	1	2	1			1	1
Spencer.....	1		1	1	1			1	1
Waverly.....	3		2	3	2			1	
TOMPKINS.									
Groton.....	1	1	1		1			1	
Ithaca.....	7		7	7	7				
Slaterville Springs.....	1		1	1	1				
ULSTER.									
Ellenville.....	7	1	6	7	6				
Kingston.....	1	1	1	1	1	1			
Marlborough.....	2	2	1	2	2				
WARREN.									
Bolton Landing.....	2		2	2	2				
Brant Lake.....	2	1	2	2	2				
Chestertown.....	2		2	2	2				
Friends Lake.....	2		2	2	2				
Glens Falls.....	41	1	34	41	36		1	17	4
Hague.....	7		7	7	7				
Lake George.....	6		6	6	6				
Luzerne.....	1		1	1	1				
North Creek.....	2		2	2	1				
Pottersville.....	1		1	1	1				
Riverside.....	1		1	1					
Silver Bay.....	1		1	1	1				
Uncas.....	1		1	1	1				
Warrensburg.....	4	3	2	4	4				
Wevertown.....	1		1	1	1				
WASHINGTON.									
Argyle.....	1		1	1	1				
Cambridge.....	3		2	3	3				
Carmel.....	1							1	
Fort Ann.....	2		2	2	2				
Fort Edward.....	10	3	7	7	6		2	1	
Greenwich.....	2		2	2	2			2	
Hudson Falls.....	6		6	6	6			3	
Middle Granville.....	1		1	1	1				
North Granville.....	2		2	2	2			1	
Salem.....	3		3	3	3			1	
Whitehall.....	4		4	4	4			1	

TABLE No. 2 — *Concluded.*

	Inspections.	Complied.	Escapes.	Appliances.	Exits.	Drills.	Dilapidated.	Rubbish.	Booths.
WAYNE.									
Lyons	18	.....	15	17	14	.....	.....	.....	.....
Newark	11	1	10	11	9	.....	.....	.....	1
Wolcott	1	1	.....	1	1	.....	.....	.....	.....
WESTCHESTER.									
Hastings-on-Hudson	6	1	6	3	2	.....	.....	3	.....
Larchmont	5	.....	5	2	2	.....	.....	1	.....
Mamaroneck	13	4	12	4	3	.....	1	2	.....
Mt. Vernon	2	1	.....	.....	.....	.....	2	.....	.....
North Pelham	4	3	.....	3	.....	.....	1	.....	.....
North Tarrytown	1	1	1	1	1	.....	.....	.....	.....
Ossining	4	2	1	1	.....	.....	3	1	.....
Port Chester	2	.....	1	2	2	1	.....	.....	.....
Scarsdale	3	1	2	3	2	.....	.....	2	.....
Tarrytown	5	1	5	2	5	.....	.....	4	.....
White Plains	136	45	115	88	78	.....	.....	83	.....
WYOMING.									
Attica	9	1	5	9	5	1	.....	2	1
Perry	1	.....	1	1	1	.....	.....	.....	.....
YATES.									
Middlesex	7	6	1	.....	7	.....	.....	.....	.....

TABLE No. 3.

INSPECTION OF STEAM BOILERS.

Number of Boilers Inspected and Reinspected.

A card index has been adopted and installed by which records of inspections of steam boilers within the jurisdiction of this Department throughout the State are systematically filed and affords a ready and reliable bureau containing data and reports pertaining to the enforcement of section 357 of the State Fire Marshal Law.

Plant numbers are assigned to each location where steam boilers are operated. The name of the owner or operator and the number of boilers operated are carefully recorded. For the purpose of identification each boiler must have conspicuously affixed thereon a metal plate on which is plainly displayed both the plant and serial number under which such boiler is entered in the records of the Department. Reports are received and filed quarterly showing the condition of boilers where inspected by an authorized insurance company and semi-annually where subject to Departmental inspection.

Where defective conditions are disclosed such as render the continuance of boilers in service hazardous, persons responsible for their condition are notified from the Department that they are obliged to make such repairs as are essential to the safety of life and property, and until such requirements are complied with the operation of such boilers is in violation of law and subject to the penalty provided by statute.

COUNTIES.	Number of plants recorded.	Number of boilers.	Total number reports received.	Total number boilers requiring repairs.
Albany.....	485	1,324	3,512	32
Allegany.....	65	201	600	14
Broome.....	185	510	2,035	33
Cattaraugus.....	230	625	2,385	45
Cayuga.....	108	245	960	37
Chautauqua.....	214	545	1,870	42
Chemung.....	141	285	742	26
Chenango.....	73	176	533	17
Clinton.....	57	162	614	15

TABLE No. 3 — *Concluded.*

COUNTIES.	Number of plants recorded.	Number of boilers.	Total number reports received.	Total number boilers requiring repairs.
Columbia.....	83	186	648	22
Cortland.....	56	157	604	19
Delaware.....	124	254	972	24
Dutchess.....	236	512	1,932	38
Erie.....	925	2,361	8,962	207
Essex.....	47	83	289	11
Franklin.....	64	92	312	9
Fulton.....	108	292	1,068	17
Genesee.....	61	134	498	11
Greene.....	68	198	390	7
Hamilton.....	3	5	8	2
Herkimer.....	106	294	907	18
Jefferson.....	128	309	1,018	22
Lewis.....	68	142	466	7
Livingston.....	44	119	397	9
Madison.....	124	308	1,127	20
Monroe.....	725	1,325	4,704	93
Montgomery.....	104	298	1,092	31
Nassau.....	105	276	1,004	47
Niagara.....	168	454	1,394	52
Oneida.....	388	1,089	3,527	78
Onondaga.....	351	933	2,807	82
Ontario.....	87	214	584	17
Orange.....	172	485	1,635	63
Orleans.....	41	106	325	14
Oswego.....	137	375	1,195	31
Otsego.....	107	281	913	29
Putnam.....	24	51	164	19
Rensselaer.....	285	840	2,720	76
Rockland.....	48	156	505	22
St. Lawrence.....	171	440	1,427	37
Saratoga.....	125	314	1,042	35
Schenectady.....	165	470	1,420	47
Schoharie.....	108	142	338	27
Schuyler.....	22	49	179	14
Seneca.....	44	97	289	11
Steuben.....	127	307	1,028	33
Suffolk.....	121	282	915	19
Sullivan.....	32	58	189	7
Tioga.....	46	97	288	12
Tompkins.....	57	121	388	7
Ulster.....	203	507	1,788	63
Warren.....	46	111	345	11
Washington.....	96	222	757	17
Wayne.....	107	231	894	28
Westchester.....	583	1,549	4,897	87
Wyoming.....	47	93	291	7
Yates.....	39	72	248	5
Foreign.....	460	460	1,407	92
Totals.....	9,144	22,024	74,548	1,917

TABLE No. 4.

Number of public buildings inspected, 1913..... 212

Location	Description of Building
Allegany	High School.
Amsterdam	(8) Public Schools.
Amityville	Public School.
Argyle	Washington County Alms House.
Attica	High School.
Auburn	High School and Annex.
Auburn	(11) Public Schools.
Ballston Spa	(3) Public Schools.
Ballston Spa	Saratoga County Jail and Court House.
Bay Shore	Public School.
Binghamton	(14) Public Schools.
Bloomington	Public School.
Bloomington	Town Hall.
Brentwood	Public School.
Buffalo	Detention Home.
Cambridge	High School.
Canandaigua	(2) Public Schools.
Canandaigua	Ontario County Orphan Asylum.
Cattaraugus	High School.
Catskill	(3) Public Schools.
Central Islip	Public School.
Center Moriches	Public School.
Chaumont	Public School.
Cleveland	Public School.
Cohoes	Public School.
Cohoes	City Hospital.
Cornwall	High School.
Cooperstown	High School.
Cooperstown	Thanksgiving Hospital.
Dansville	High School.
Delhi	Public School.
Dolgeville	High School and 1 Public School.
Downsville	Public School.
Earlville	High School.
East Rockaway	Public School.

TABLE No. 4 — *Continued.*

Location	Description of Building
Edmeston	High School.
Elmira Heights	Public School.
Evans Mills	Public School.
Fort Ann	High School.
Fort Edward	(2) Public Schools.
Geneva	(5) Public Schools.
Geneva	City Hospital.
Geneseo	Livingston County Almshouse.
Glens Falls	(3) Public Schools.
Granville	(3) Public Schools.
Griffins Corner	High School.
Hamilton	High School.
Hillsdale	High School.
Hornell	Park School.
Hopewell, Town of	Ontario County Almshouse.
Hudson Falls	(3) Public Schools.
Hunter	High School.
Interlaken	High School.
Jamestown	Public School.
Lake Placid	High School.
Lestershire	Municipal Hall.
Lestershire	(2) Public Schools.
Lindenhurst	Public School.
Little Falls	(3) Public Schools.
Little Valley	High School.
Lyons	Public School.
Lyons, Town of	Wayne County Almshouse.
Lynbrook	(2) Public Schools.
Machias	(5) Public Schools.
McGrawville	High School.
McGrawville	Village Hall and Fire Headquarters.
Mechanicville	(3) Public Schools.
Middlesex	(6) Public Schools.
Middlesex	Town Hall.
Middletown	State Hospital for Insane.
Middle Granville	Public School.
Morrisville	High School.

TABLE No. 4 — *Concluded.*

Location	Description of Building
Morrisville	(3) State Agricultural School.
Newark	(3) Public Schools.
North Granville	Public School.
North Tarrytown	High School.
Oneonta	Municipal Building.
Oneonta	(2) Public Schools.
Palmyra	High School.
Patchogue	High School.
Perry	High School.
Port Byron	High School.
Port Chester	(2) Public Schools.
Port Jervis	(3) Public Schools.
Port Leyden	(2) Public Schools.
Portville	Public School.
Poughkeepsie	(9) Public Schools.
Rensselaer	(3) Public Schools.
Roosevelt	Public School.
Salem	Washington Academy School.
Sayville	High School.
Scarsdale	Public School.
Schroon Lake	Town Hall.
Scotia	Public School.
Seneca Falls	(4) Public Schools.
Sherrill	Public School.
Slaterville Springs	Public School.
St. Johnsville	High School
Ticonderoga	(3) Public Schools.
Tupper Lake	High School.
Union Springs	High School.
Union, Town of	(13) Public Schools.
Warrensburgh	High School.
Waterloo	(4) Public Schools.
Watertown	Jefferson County Orphan Asylum.
Watkins	(2) Public Schools.
Weedsport	High School.
Wells	Public School.
Whitehall	(2) Public Schools.

TABLE No. 5.

Total number of fires reported as suspicious and investigated by this Department, January 1 to December 31, 1913:

Total number of investigations..... 267

Albany	40	Oneida	5
Allegany	4	Onondaga	2
Broome	6	Ontario	3
Cattaraugus	3	Orange	4
Cayuga	2	Orleans	1
Chautauqua	5	Oswego	4
Chemung	1	Otsego	8
Chenango . . . . .	..	Putnam . . . . .	..
Clinton	1	Rensselaer	15
Columbia	2	Rockland	2
Cortland	2	St. Lawrence	3
Delaware	1	Saratoga	18
Dutchess	3	Schenectady	4
Eric	6	Schoharie	2
Essex	4	Schuyler	1
Franklin	1	Seneca	5
Fulton	9	Steuben	4
Genesee	3	Suffolk	4
Greene	1	Sullivan	5
Hamilton . . . . .	..	Tioga	4
Herkimer	1	Tompkins	4
Jefferson	3	Ulster	1
Lewis	1	Warren	3
Livingston . . . . .	..	Washington	4
Madison	3	Wayne	1
Monroe	13	Westchester	28
Montgomery	8	Wyoming	2
Nassau	3	Yates . . . . .	..
Niagara	4		

TABLE No. 6.

Showing proceedings in arson cases in the various counties of the State during the year 1913:

COUNTY.	Number of arrests.	Number of con- victions.	Cases pending.	Sentenced.
Albany.....	17	4	3	4
Cattaraugus.....	1		1	
Cayuga.....	1			
Columbia.....	3		1	
Cortland.....	1			
Delaware.....	1			
Dutchess.....	3	1		1
Erie.....	10	4	1	4
Essex.....	6	1		
Fulton.....	4	2	1	1
Genesee.....	1	1		1
Jefferson.....	2			
Madison.....	3	1	2	1
Montgomery.....	1		1	
Nassau.....	2		2	
Oneida.....	5		4	
Onondaga.....	3	3		3
Otsego.....	2	2	1	1
Rensselaer.....	5		2	
Saratoga.....	7	2		2
Schoharie.....	2		2	
Steuben.....	2			
Suffolk.....	8	1	1	1
Sullivan.....	2	2		2
Tioga.....	1			
Ulster.....	1	1		1
Greater New York.....	90	54	34	40
Totals.....	184	79	56	62

TABLE No. 7.
Number of Fires and Fire Losses During 1913, Based on the Reports of the Assistants to the State Fire Marshal.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
ALBANY.							
January.....	63	\$17,772	\$8,077	\$174,300	\$214,300	\$13,892	\$7,077
February.....	43	8,693	30,052	171,000	138,200	8,588	29,052
March.....	69	26,196	18,129	225,600	572,700	21,696	17,649
April.....	59	20,118	15,884	1,211,300	84,100	19,918	20,069
May.....	43	40,268	2,818	139,000	107,500	23,128	2,498
June.....	34	10,617	6,474	71,300	47,600	7,892	5,474
July.....	37	47,256	5,254	92,800	28,600	20,966	4,653
August.....	29	21,194	13,754	66,700	35,000	19,339	12,789
September.....	36	104,222	17,790	92,500	92,700	18,387	9,270
October.....	29	9,144	7,642	114,800	21,100	8,339	5,687
November.....	41	21,204	16,416	121,200	207,900	11,239	7,006
December.....	51	90,567	267,731	2,240,800	563,000	88,345	266,366
Total.....	\$534	\$417,251	\$410,021	\$4,721,300	\$2,112,400	\$261,819	\$387,620
ALLEGANY.							
January.....	8	\$7,755	\$1,180	\$13,700	\$4,400	\$7,605	\$1,080
February.....	6	1,430	215	11,200	6,300	1,430	210
March.....	10	18,435	8,757	53,400	34,300	15,975	7,692
April.....	3	3,315	700	2,300	300	515	300
May.....	3	473	555	1,700	1,200	473	555
June.....	1	3,000	8,500	2,000	10,500	2,000	8,500
July.....	4	4,577	3,300	8,000	4,100	3,477	1,400
August.....	3	1,489	806	3,900	800	905	486
September.....	6	4,575	5,010	36,000	4,700	3,550	4,210
October.....	6	3,800	4,774	5,200	3,500	3,224	3,224
November.....	3	2,025	700	85,400	700	2,025	600
December.....	3	2,025	700	85,400	700	2,025	600
Total.....	52	\$50,874	\$34,497	\$221,800	\$70,900	\$41,155	\$29,257

Broome.

14	January.....	\$6,901	\$3,544	\$21,300	\$11,600	\$6,701	\$3,430
9	February.....	4,681	1,328	12,900	2,500	3,466	4,483
11	March.....	6,815	9,565	127,800	19,600	8,610	9,580
9	April.....	2,126	4,895	60,300	39,300	2,028	4,439
16	May.....	11,199	6,243	171,400	18,000	11,199	6,307
13	June.....	5,294	334	67,800	31,000	4,764	2,254
18	July.....	40,172	88,388	264,400	216,700	47,847	80,258
17	August.....	24,172	17,136	79,000	34,600	17,992	13,486
11	September.....	2,596	2,107	52,000	6,500	2,695	13,082
16	October.....	21,410	4,969	43,700	2,700	19,110	2,034
13	November.....	10,869	109,367	31,200	106,100	7,769	98,042
18	December.....	3,001	10,598	36,700	20,600	3,001	10,548
164	Total.....	\$147,806	\$258,415	\$358,500	\$509,500	\$133,180	\$229,872

CATTARAUGUS.

9	January.....	\$5,351	\$1,762	\$17,300	\$49,900	\$3,851	\$1,463
19	February.....	9,869	3,320	99,400	15,000	5,079	2,042
19	March.....	11,903	10,267	137,200	90,200	11,006	10,067
9	April.....	2,647	249	8,600	2,300	1,867	89
11	May.....	12,908	651	41,800	1,700	12,897	501
8	June.....	9,510	1,847	18,200	3,200	7,350	1,704
11	July.....	6,439	3,329	18,100	6,100	4,609	2,539
5	August.....	5,725	1,900	3,700	2,200	3,700	1,900
12	September.....	13,516	8,226	9,900	5,900	8,616	4,808
2	October.....	2,600	1,250	2,300	1,200	2,300	1,150
3	November.....	6,000	2,460	3,900	1,800	2,200	1,150
4	December.....	372	1,902	2,900	7,500	372	1,902
112	Total.....	\$84,870	\$37,153	\$363,300	\$187,000	\$62,567	\$29,205

CATUGA.

6	January.....	\$1,132	\$572	\$42,900	\$10,800	\$1,107	\$797
8	February.....	6,103	3,809	23,800	14,000	6,103	3,609
5	March.....	2,183	600	8,800	3,800	1,793	300
3	April.....	4,950	2,215	5,500	2,000	2,450	1,415
11	May.....	622	231	24,500	5,800	287	221
7	June.....	6,293	20,480	27,400	46,000	6,293	20,480
4	July.....	7,032	2,278	8,100	1,400	4,607	1,268
16	August.....	11,427	10,746	326,700	32,300	5,812	6,036
5	September.....	1,240	460	4,700	1,100	660	160
4	October.....	1,569	1,450	12,300	2,900	1,389	1,100
2	November.....	293	.....	3,000	.....	293	.....
5	December.....	8,040	4,500	52,300	25,300	7,840	4,500
76	Total.....	\$50,914	\$47,641	\$540,000	\$145,400	\$38,664	\$39,886

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
CHAUTAUQUE.							
January.....	20	\$29,545	\$24,911	\$44,200	\$34,300	\$27,420	\$20,536
February.....	21	26,648	6,216	73,620	82,000	9,108	3,456
March.....	17	4,974	1,257	36,700	14,200	4,374	932
April.....	22	14,529	14,467	53,000	29,500	12,374	12,815
May.....	16	9,894	5,078	114,600	108,100	8,144	2,828
June.....	21	42,001	134,728	53,300	65,100	21,382	56,094
July.....	23	10,592	9,628	30,100	18,900	8,029	8,973
August.....	25	13,316	5,731	26,500	11,700	8,716	3,365
September.....	11	4,221	2,392	202,600	450,000	3,206	2,067
October.....	19	6,826	6,063	148,700	205,200	4,820	27,750
November.....	15	11,466	28,550	44,500	66,800	10,966	7,782
December.....	23	14,278	9,622	55,600	35,200	10,368	
Total.....	233	\$187,750	\$247,633	\$882,400	\$1,181,100	\$128,548	\$154,018
CHEMUNG.							
January.....	14	\$5,158	\$10,086	\$24,100	\$24,000	\$4,758	10,036
February.....	17	9,392	8,257	31,600	41,200	9,298	8,232
March.....	25	204,457	66,444	259,300	95,300	204,077	66,264
April.....	14	2,862	2,243	65,500	12,000	1,802	1,543
May.....	18	7,876	5,970	20,000	13,300	6,416	3,140
June.....	17	6,307	2,258	31,700	8,000	4,587	1,338
July.....	13	4,021	2,178	46,100	8,200	3,021	1,093
August.....	17	1,042	482	82,500	28,300	1,027	417
September.....	19	9,065	9,408	50,000	9,900	6,145	6,318
October.....	19	9,341	7,153	62,600	35,300	7,301	6,478
November.....	15	1,386	1,255	21,200	22,100	1,886	1,260
December.....	21	2,809	3,009	50,200	16,600	2,879	3,009
Total.....	209	\$202,816	\$118,803	\$746,700	\$325,100	\$252,787	\$108,048
CHENANGO.							
January.....	5	\$1,811	\$1,170	\$2,400	\$1,600	\$501	\$600
February.....	3	3,050	640	4,100	1,000	2,150	560
March.....	3	2,832	750	3,900	1,500	1,050	560

April.....	6	8,006	1,325	8,500	1,600	5,300	1,250
May.....	1	800	300	800	500	800	500
June.....	4	800	940	4,100	500	850	900
July.....	7	8,722	10,805	12,100	22,180	3,972	3,600
August.....	4	14,125	7,550	11,400	3,700	13,025	3,200
September.....	5	8,200	3,100	5,700	2,800	3,400	2,800
October.....	3	19,350	1,200	6,900	2,200	6,350	1,100
November.....	2	3,800	2,600	2,800	2,300	2,800	2,300
December.....	1	1,500	500	900	.....	900	.....
Total.....	44	\$67,096	\$30,540	\$62,600	\$39,450	\$41,063	\$22,015
CLINTON.							
January.....	11	\$5,575	\$1,500	\$30,600	\$13,800	\$4,275	\$1,075
February.....	4	1,613	200	1,300	200	1,113	39
March.....	5	960	500	10,600	600	760	.....
April.....	2	800	400	200	300	200	300
May.....	.....	.....	.....	.....	.....	.....	.....
June.....	7	6,110	7,865	10,100	5,600	5,090	5,000
July.....	7	7,600	3,600	4,700	1,700	4,000	1,450
August.....	2	867	400	60,000	.....	67	300
September.....	2	2,200	500	1,300	900	1,300	200
October.....	3	5,700	2,400	3,200	2,200	3,200	2,200
November.....	3	12,225	6,315	11,100	5,700	5,225	3,125
December.....	1	300	300	7,500	5,800	300	300
Total.....	47	\$43,950	\$23,994	\$140,600	\$31,100	\$35,530	\$14,569
COLUMBIA.							
January.....	1	.....	.....	.....	.....	.....	.....
February.....	7	.....	.....	.....	.....	.....	.....
March.....	3	.....	.....	.....	.....	.....	.....
April.....	9	.....	.....	.....	.....	.....	.....
May.....	8	.....	.....	.....	.....	.....	.....
June.....	2	.....	.....	.....	.....	.....	.....
July.....	7	.....	.....	.....	.....	.....	.....
August.....	7	.....	.....	.....	.....	.....	.....
September.....	6	.....	.....	.....	.....	.....	.....
October.....	4	.....	.....	.....	.....	.....	.....
November.....	7	.....	.....	.....	.....	.....	.....
December.....	4	.....	.....	.....	.....	.....	.....
Total.....	56	\$78,040	\$39,101	\$140,400	\$38,000	\$52,018	\$23,968
CORTLAND.							
January.....	6	.....	.....	.....	.....	.....	.....
February.....	7	.....	.....	.....	.....	.....	.....
March.....	.....	.....	.....	.....	.....	.....	.....

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
CORTLAND — Continued.							
April.....	3	\$920	\$508	\$25,900	\$2,400	\$910	\$508
May.....	7	5,535	4,000	8,800	11,400	3,700	3,500
June.....	2	72,439	50	97,000	.....	72,189	.....
July.....	6	5,500	4,925	15,300	5,900	6,500	4,375
August.....	7	7,350	3,761	14,800	7,900	4,750	3,161
September.....	4	10,584	3,300	14,100	3,000	10,284	3,000
October.....	3	3,475	2,850	3,900	3,100	3,475	2,850
November.....	2	6,400	14,700	5,700	14,200	5,700	14,200
December.....	3	614	500	4,700	7,900	614	500
Total.....	50	\$122,697	\$42,621	\$209,300	\$64,900	\$115,252	\$37,871
DELAWARE.							
January.....	3	\$14,759	\$175	\$10,000	\$700	\$9,000	\$25
February.....	5	5,380	1,851	7,500	2,580	350	350
March.....	3	3,508	3,600	2,400	2,300	1,708	2,300
April.....	.....	.....	.....	.....	.....	.....	.....
May.....	5	5,051	1,317	5,500	2,900	2,950	1,317
June.....	.....	.....	.....	.....	.....	.....	.....
July.....	5	37,600	2,540	4,400	1,500	4,400	1,500
August.....	8	11,250	3,800	7,600	6,710	500	500
September.....	5	8,295	5,628	5,500	3,600	4,095	2,178
October.....	6	9,045	3,178	9,700	4,400	8,295	2,778
November.....	2	757	210	4,500	1,000	557	60
December.....	4	3,700	6,900	4,500	7,700	3,700	6,800
Total.....	46	\$99,345	\$29,199	\$61,600	\$26,000	\$43,995	\$17,808
DUTCHESS.							
January.....	7	\$2,413	\$765	\$9,100	\$1,700	\$2,413	\$455
February.....	15	13,319	7,096	37,500	13,700	10,819	5,490
March.....	9	6,954	2,867	16,700	1,400	2,454	167
April.....	5	720	300	13,900	1,500	3,720	.....
May.....	2	3,296	360	6,100	1,000	3,406	.....
June.....	7	16,800	2,800	16,700	1,700	11,360	1,200

July.....	7	25,415	3,710	45,000	5,500	18,015	2,600
August.....	15	48,346	16,383	46,200	11,300	41,535	8,033
September.....	5	17,415	3,416	9,800	2,800	0,815	2,191
October.....	8	2,865	633	24,200	10,300	2,655	5,608
November.....	9	15,510	11,950	19,200	19,200	13,310	8,165
December.....	4	275	150	5,000	5,000	13,275	8,165
Total.....	94	\$197,877	\$80,430	\$258,400	\$75,100	\$113,667	\$28,925
Emis.							
January.....	65	\$20,180	\$22,195	\$1,547,700	\$308,000	\$19,780	\$27,081
February.....	102	57,349	31,636	1,107,400	597,000	40,689	31,401
March.....	100	76,044	127,796	1,031,400	718,000	79,506	137,170
April.....	70	38,004	82,449	948,100	340,700	30,633	59,689
May.....	72	242,157	413,880	842,300	591,600	234,200	412,756
June.....	74	522,596	581,778	942,300	723,600	521,434	79,224
July.....	82	4,956	38,599	1,532,300	90,500	40,731	35,464
August.....	86	14,958	113,942	1,732,400	999,500	64,286	111,229
September.....	90	120,898	113,942	1,732,400	405,300	205,982	128,456
October.....	100	207,697	129,246	1,732,400	671,300	41,854	28,935
November.....	78	45,404	37,375	734,500	211,800	36,223	27,943
December.....	70	42,722	30,638	348,000	122,000	15,156	11,864
Total.....	976	\$1,436,594	\$1,121,258	\$11,302,000	\$5,594,100	\$1,339,225	\$1,091,222
Essex.							
January.....	2	\$665	\$33	\$1,700	\$500	\$665	\$33
February.....	3	1,500	150	2,900	2,000	1,200	25
March.....	3	4,300	1,500	2,300	800	2,300	800
April.....	7	10,299	4,100	4,100	2,400	4,100	2,400
May.....	6	5,575	5,400	5,400	2,300	3,600	2,300
June.....	1	200	75	200	100	200	75
July.....	3	3,300	975	1,700	300	1,700	175
August.....	3	7,100	8,580	5,300	8,500	5,300	8,380
September.....	2	2,275	1,500	1,600	1,200	1,500	950
October.....	4	2,900	400	3,000	800	2,600	300
November.....	3	4,200	1,400	3,200	1,100	3,000	800
Total.....	38	\$42,015	\$24,413	\$31,100	\$19,900	\$26,065	\$16,238
FRANKLIN.							
January.....	9	\$5,150	\$5,300	\$6,800	\$5,300	\$4,050	\$4,375
February.....	15	14,988	33,838	24,700	24,100	11,028	18,338
March.....	9	4,785	3,379	7,800	9,400	2,885	2,479
April.....	6	20,620	2,800	11,800	3,000	5,020	2,000
May.....	9	16,610	3,900	60,000	10,200	16,400	2,200
June.....	8	7,210	210	10,600	1,800	6,410	210

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
FRANKLIN — Continued.							
July.....	5	\$2,050	\$1,119	\$5,000	\$3,200	\$1,950	\$1,094
August.....	7	19,550	3,400	136,100	127,300	17,350	2,800
September.....	9	6,214	6,386	71,300	15,400	5,714	5,876
October.....	3	1,505	4,100	1,900	4,000	1,405	4,000
November.....	3	350	237	4,000	1,000	150	87
December.....	9	3,260	680	11,900	4,300	3,010	530
Total.....	92	\$102,292	\$65,349	\$351,900	\$209,000	\$74,372	\$43,989
FULTON.							
January.....	10	\$5,607	\$1,972	\$23,300	\$7,000	\$4,607	\$1,952
February.....	13	9,970	4,490	45,500	16,100	7,205	4,440
March.....	9	2,963	8,291	39,800	20,900	2,593	8,156
April.....	9	3,405	2,419	10,500	6,500	2,755	2,109
May.....	10	1,578	1,173	23,200	5,600	1,878	873
June.....	15	13,510	5,879	28,800	14,000	10,280	4,513
July.....	14	15,900	20,291	47,700	73,000	12,560	16,291
August.....	12	2,846	2,968	19,300	9,600	1,646	2,793
September.....	6	2,000	1,265	18,400	7,500	1,600	1,265
October.....	6	3,785	1,695	17,700	3,000	3,510	1,345
November.....	17	243,987	4,309	280,100	8,900	243,682	3,844
December.....	16	15,077	11,206	109,500	22,700	15,057	10,860
Total.....	137	\$320,658	\$65,958	\$673,800	\$194,700	\$306,963	\$58,550
GENESEE.							
January.....	4	\$1,653	\$1,320	\$6,500	\$5,500	\$1,648	\$1,320
February.....	7	3,819	5,456	13,900	12,360	3,719	5,081
March.....	4	2,863	2,209	10,900	9,200	2,463	1,609
April.....	3	1,010	55	7,500	2,000	1,010	55
May.....	9	2,700	1,317	11,200	2,900	2,100	1,042
June.....	9	127,211	75	136,800	.....	127,201	.....
July.....	11	12,110	3,215	16,500	4,800	8,146	2,015
August.....	11	12,553	6,488	8,900	6,700	4,944	4,944
September.....	11	0,079	1,553	20,100	3,700	2,770	1,053
October.....	6	6,553	3,144	34,100	3,000	4,053	2,710

November.....	0	4,102	1,540	6,900	2,900	2,402	1,200
December.....	1		500	400		400	
Total.....	73	\$181,322	\$25,878	\$273,700	\$41,900	\$104,731	\$20,878
Gaucha.							
January.....	5	\$27,900	\$1,850	\$10,500	\$3,400	\$10,500	\$1,900
February.....	4	2,105	3,742	8,600	14,600	7,495	4,842
March.....	4	11,700	3,590	7,100	2,850	7,100	2,000
April.....	7	4,075	3,889	2,700	6,500	2,375	1,350
May.....	7	6,805	3,889	33,900	6,500	6,925	1,324
June.....	9	41,880	32,838	21,500	27,900	20,180	25,650
July.....	8	1,488	4,840	17,500	4,400	8,988	8,645
August.....	4	8,700	1,740	26,200	1,500	8,900	1,500
September.....	3	6,400	3,400	3,700	2,600	5,800	1,600
October.....	3	12,900	9,100	6,900	7,800	6,900	7,900
November.....	4	8,900	3,200	9,700	8,100	3,900	2,900
Total.....	50	\$139,583	\$60,781	\$148,300	\$78,700	\$78,383	\$52,611
Hamilton.							
January.....							
February.....							
March.....							
April.....							
May.....							
June.....							
July.....							
August.....	2	\$11,000	\$1,900	\$10,500	\$1,000	\$10,500	\$1,000
September.....	1	308	80	400	200	380	80
October.....	1	600	260				
November.....	1	10,000	2,000	7,000	1,500	7,000	1,500
December.....							
Total.....	5	\$21,880	\$3,580	\$18,200	\$2,700	\$18,180	\$2,580
Hartman.							
January.....	19	\$3,710	\$1,654	\$211,400	\$12,900	\$3,000	\$780
February.....	10	2,045	2,394	61,700	10,500	1,585	1,968
March.....	8	910	814	28,800	12,800	7,710	288
April.....	17	13,462	16,928	93,100	59,900	13,437	4,908
May.....	94	2,601	8,808	49,200	28,100	1,916	8,608
June.....	11	3,785	3,256	50,200	31,900	2,285	3,056
July.....	14	1,740	641	27,200	6,100	2,330	48
August.....	21	16,424	4,604	46,600	12,000	11,659	1,516
September.....	18	806	1,56	6,700	1,600	401	31
October.....	18	540	1,857	874,200	51,500	180	1,672

TABLE No. 7 — Continued.

COUNTY.	Number of fire.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
HERKIMER — Continued.							
November.....	11	\$3,378	\$7,992	\$202,200	\$18,400	\$2,128	\$2,992
December.....	11	3,180	5,104	178,400	58,100	3,180	5,096
Total.....	172	\$52,491	\$53,603	\$1,827,400	\$302,300	\$40,631	\$30,968
JEFFERSON.							
January.....	14	\$468	\$626	\$32,100	\$6,300	\$458	\$586
February.....	18	5,715	5,668	115,100	15,400	5,375	5,123
March.....	13	2,720	2,366	105,200	9,000	1,720	1,343
April.....	7	797	1,308	18,800	2,000	197	1,008
May.....	11	2,032	1,730	17,000	4,600	1,732	1,412
June.....	14	6,400	1,507	28,200	5,200	2,777	1,207
July.....	18	6,284	4,981	78,600	9,000	2,317	2,841
August.....	16	3,200	5,299	22,100	2,300	2,090	1,224
September.....	11	4,280	2,327	16,100	11,200	2,780	1,834
October.....	13	13,581	3,051	18,500	6,600	9,678	2,246
November.....	13	20,524	19,927	21,100	27,900	11,016	16,912
December.....	12	32,605	99,025	129,100	122,800	28,855	92,815
Total.....	160	\$98,516	\$147,815	\$601,900	\$222,300	\$71,945	\$128,551
LEWIS.							
January.....	1	\$83	\$15	\$1,500	.....	\$33	.....
February.....	3	3,290	1,600	4,000	\$500	2,025	\$500
March.....	3	12,015	610	800	.....	15	.....
April.....	.....	.....	.....	.....	.....	.....	.....
May.....	5	3,568	1,600	3,300	600	1,968	600
June.....	.....	.....	.....	.....	.....	.....	.....
July.....	.....	.....	.....	.....	.....	.....	.....
August.....	3	1,480	660	4,500	500	980	60
September.....	4	3,436	1,650	1,400	500	1,400	500
October.....	2	1,230	616	1,500	500	1,730	316
November.....	.....	.....	.....	.....	.....	.....	.....
December.....	1	28	.....	1,500	.....	28	.....
Total.....	22	\$25,083	\$40,751	\$19,500	\$2,600	\$7,170	\$1,970

LIVINGSTON.

January.....	1	\$100	\$100	\$100	\$100
February.....	7	4,475	15,677	4,900	3,180
March.....	3	11,300	3,700	3,600	3,300
April.....	5	4,470	2,625	12,900	4,470
May.....	5	6,700	3,945	5,000	6,250
June.....	2	240	190	2,200	240
July.....	5	685	350	4,800	690
August.....	6	686	235	8,800	200
September.....	3	5,000	4,465	810	370
October.....	1	1,600	1,100	2,400	2,500
November.....	1	3,125	1,500	.....	.....
December.....	3	.....	800	.....	.....
Total.....	42	\$38,581	\$34,287	\$18,410	\$23,585

MADISON.

January.....	7	\$3,320	\$1,183	\$4,500	\$3,230
February.....	10	40,355	40,952	31,100	22,690
March.....	12	6,723	13,773	14,800	6,233
April.....	8	4,245	2,416	21,500	2,030
May.....	4	4,100	2,300	1,800	2,100
June.....	6	55,392	3,600	18,300	29,392
July.....	8	6,965	5,025	7,100	5,965
August.....	7	3,198	1,498	21,800	4,525
September.....	5	11,508	1,100	3,700	1,098
October.....	4	114,920	78,144	82,100	2,500
November.....	7	4,130	1,877	5,800	73,144
December.....	2	500	180	1,200	64,920
Total.....	80	\$255,356	\$155,058	\$212,900	2,430

MONROE.

January.....	43	\$16,105	\$20,009	\$122,700	\$14,905
February.....	54	12,947	17,971	58,700	10,759
March.....	53	55,402	39,197	81,200	45,447
April.....	40	11,276	10,865	136,700	7,661
May.....	46	51,449	31,994	129,800	30,847
June.....	35	195,039	21,614	30,200	45,061
July.....	56	88,086	32,261	111,400	180,609
August.....	54	39,262	48,739	82,932	16,938
September.....	45	18,837	17,520	99,300	37,629
October.....	44	7,000	13,301	66,800	27,410
November.....	45	10,133	883,900	143,200	16,384
December.....	47	31,896	299,500	109,100	6,286
Total.....	562	\$538,432	\$298,854	\$1,172,400	8,783

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
MONTGOMERY.							
January.....	14	\$4,574	\$5,980	\$81,000	\$55,600	\$4,474	\$4,480
February.....	17	2,648	1,409	13,000	132,800	2,448	1,409
March.....	19	8,350	3,790	18,400	95,300	3,235	3,235
April.....	25	24,640	24,855	36,300	9,500	6,534	2,240
May.....	13	6,719	6,569	84,800	9,500	3,069	3,069
June.....	19	1,952	1,031	170,700	121,700	1,882	842
July.....	25	24,032	4,366	34,900	6,700	11,077	3,041
August.....	23	21,066	16,187	61,300	27,100	18,151	14,067
September.....	17	2,070	1,003	36,000	22,700	1,856	918
October.....	12	2,300	1,656	40,100	12,100	2,275	1,656
November.....	7	3,403	1,142	7,700	2,600	3,203	1,132
December.....	15	1,315	1,074	73,800	22,400	1,060	909
Total.....	206	\$103,078	\$99,082	\$637,900	\$518,000	\$65,404	\$37,098
NIAGARA.							
January.....	8	\$2,984	\$1,000	\$19,200	\$5,800	\$2,984	\$1,315
February.....	10	23,385	4,705	52,000	15,900	22,925	4,205
March.....	9	26,205	3,605	26,500	5,500	21,785	185
April.....	8	107,665	62,400	91,300	54,200	80,940	59,400
May.....	11	11,830	34,300	18,200	13,700	9,085	12,540
June.....	5	6,500	9,000	6,200	6,200	4,800	6,200
July.....	10	16,464	2,060	20,000	3,500	14,659	1,890
August.....	7	20,330	9,680	25,500	5,600	15,480	3,330
September.....	11	500	300	3,000	3,000	500	300
October.....	11	124,500	22,305	98,700	27,200	91,250	17,005
November.....	3	525	408	600	500	400	400
December.....	3	659	12,000	7,600	10,500	69	10,800
Total.....	85	\$341,537	\$159,113	\$308,800	\$151,300	\$265,417	\$110,220
NIAGARA.							
January.....	10	\$8,121	\$4,745	\$204,400	\$259,900	\$7,301	\$4,545
February.....	15	7,985	4,570	47,000	12,500	3,385	3,385
March.....	8	85,417	3,891	47,000	38,100	39,117	3,795
April.....	7	1,427	1,122	20,700	10,900	1,412	1,122
May.....	4	4,440	5,022	30,700	4,400	3,780	3,387
June.....	3	100	50	41,000	4,000	3,605	3,387

July.....	14	308,463	2,997	512,800	7,400	308,437	2,642
August.....	11	9,870	2,976	33,300	6,800	9,080	5,848
September.....	8	16,960	16,800	11,800	16,400	8,590	8,539
October.....	5	9,240	22,432	7,700	16,500	2,200	11,750
November.....	2	9,195	22,432	7,700	16,500	2,200	14,402
December.....	5	1,196	19,137	7,700	5,100	185	5,152
Total.....	99	\$461,367	\$73,371	\$1,028,800	\$346,900	\$395,392	\$48,069
OWENIA.							
January.....	35	\$13,971	\$9,593	\$332,800	\$58,900	\$12,951	\$6,518
February.....	40	10,118	6,291	174,600	142,900	9,918	6,196
March.....	35	8,887	5,587	119,500	142,900	5,532	5,427
April.....	52	12,663	5,569	316,400	166,700	7,633	3,989
May.....	46	14,894	10,267	800,200	298,100	7,779	7,709
June.....	32	2,970	4,430	181,200	61,100	2,480	1,135
July.....	56	30,946	15,356	395,100	91,300	22,841	7,976
August.....	44	18,046	14,537	126,100	78,800	10,681	9,997
September.....	38	21,555	24,059	261,100	267,200	19,520	32,124
October.....	36	13,718	2,349	172,800	49,900	8,648	2,239
November.....	41	14,002	8,824	192,800	58,000	9,727	7,249
December.....	58	18,274	19,646	1,066,500	96,806	13,564	17,239
Total.....	513	\$180,044	\$136,298	\$4,223,100	\$1,413,500	\$131,294	\$107,793
OWONDAGA.							
January.....	12	\$9,081	\$27,110	\$44,900	\$41,800	\$5,681	\$25,610
February.....	10	5,832	12,878	146,800	35,100	5,712	12,828
March.....	13	3,870	2,840	154,900	6,200	3,870	2,440
April.....	60	36,032	12,972	358,300	175,600	14,832	7,792
May.....	21	17,219	14,816	86,400	35,100	8,019	8,315
June.....	20	34,968	6,200	630,900	20,200	34,968	6,200
July.....	16	95,874	9,110	225,100	26,600	92,208	8,285
August.....	17	8,780	7,296	35,400	64,200	7,265	5,698
September.....	16	104,762	16,594	242,500	30,400	103,682	15,884
October.....	21	12,253	10,943	55,900	151,000	8,453	7,215
November.....	11	7,829	8,677	225,200	20,700	6,829	7,727
December.....	17	16,664	13,418	78,400	34,200	12,164	10,970
Total.....	243	\$353,173	\$142,854	\$2,314,700	\$641,100	\$303,684	\$118,966
ONTARIO.							
January.....	1	\$8,000	\$6,000	\$5,000	\$5,000	\$5,000	\$5,000
February.....	1	2,843	8,158	41,000	141,000	2,843	8,158
March.....	5	2,175	6,890	3,000	3,100	1,500	2,315
April.....	27	2,225	6,626	22,800	15,700	1,825	5,726
May.....	3	1,198	2,250	39,300	127,400	986	1,760
June.....	6	5,746	2,186	15,000	7,200	2,431	1,470
July.....	8	22,366	86,835	40,700	87,600	16,770	73,870

TABLE No. 7 — Continued.

COUNTRY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
ONTARIO — Continued							
August.....	8	\$12,590	\$8,240	\$14,900	\$7,300	\$8,980	\$4,450
September.....	4	2,120	535	9,200	1,200	1,985	435
October.....	3	11,325	5,553	19,200	8,500	6,705	3,103
November.....	6	8,660	4,890	28,200	2,800	6,160	2,670
December.....	2	1,000	175	900	100	700	100
Total.....	59	\$80,245	\$134,318	\$239,200	\$405,900	\$55,794	\$109,053
ORANGE.							
January.....	8	\$11,335	\$21,423	\$16,200	\$17,400	\$9,335	\$13,973
February.....	14	6,275	1,145	279,900	257,200	6,075	509
March.....	10	15,187	7,250	52,400	32,300	14,567	7,120
April.....	10	18,245	85,850	124,200	103,400	16,625	85,200
May.....	8	16,240	1,160	12,900	1,500	5,690	410
June.....	10	15,562	11,120	94,700	6,300	13,152	5,910
July.....	16	34,079	8,813	57,500	4,900	29,619	4,030
August.....	16	58,138	11,906	80,500	9,300	46,629	6,456
September.....	12	12,339	6,417	27,600	11,079	5,442	5,442
October.....	10	91,615	10,927	125,100	53,000	71,289	6,053
November.....	11	20,400	7,650	20,900	3,800	13,100	3,825
December.....	5	4,160	1,650	11,500	3,600	2,500	1,150
Total.....	130	\$303,566	\$175,311	\$883,400	\$515,200	\$239,660	\$139,978
ORLEANS.							
January.....	3	\$1,525	\$1,000	\$2,500	\$2,300	\$1,510	\$1,050
February.....	3	1,480	480	4,700	1,700	835	1,480
March.....	4	11,625	6,500	6,500	2,400	5,925	2,400
April.....	6	4,150	4,960	8,100	3,050	4,550	4,550
May.....	5	13,325	3,016	41,000	6,600	11,525	2,816
June.....	5	1,160	835	12,900	3,000	1,550	535
July.....	5	19,905	6,270	13,600	6,300	11,604	5,903
August.....	9	17,160	10,810	714,100	6,300	7,260	5,403
September.....	7	19,265	19,843	65,600	16,100	18,053	14,743
October.....	7	4,782	1,300	6,800	1,600	3,132	3,450

November.....	6	3,861	1,840	18,200	9,900	2,761	1,690
December.....	6	2,760	3,350	19,300	1,800	1,664	550
Total.....	65	\$100,518	\$60,194	\$902,200	\$61,700	\$67,960	\$40,464
Owasego.							
January.....	9	\$3,855	\$1,800	\$409,500	\$80,800	\$2,600	\$1,645
February.....	9	2,245	1,035	19,400	7,900	2,245	735
March.....	11	5,570	2,915	609,900	104,800	3,970	2,310
April.....	15	7,111	337	4,700	2,700	511	132
May.....	15	7,961	2,720	106,200	20,300	6,861	1,475
June.....	9	1,725	760	12,600	1,600	2,420	725
July.....	15	8,080	2,232	51,700	5,000	2,320	325
August.....	9	5,311	2,687	13,800	4,800	4,011	1,827
September.....	15	6,955	3,119	46,600	8,600	3,555	1,504
October.....	10	11,350	8,440	109,100	2,500	5,795	2,450
November.....	7	4,075	3,200	161,500	257,000	2,975	2,700
December.....	6	3,860	2,005	203,500	1,000	3,505	1,000
Total.....	120	\$60,698	\$31,240	\$1,648,500	\$446,400	\$40,268	\$16,828
Owasego.							
January.....	4	\$1,905	\$1,100	\$35,600	\$67,100	\$1,905	\$1,110
February.....	7	1,837	425	30,700	46,000	1,837	270
March.....	8	6,093	2,747	44,400	58,700	4,793	2,597
April.....	4	485	393	3,900	1,300	475	393
May.....	9	74,525	75,630	151,700	162,000	701,110	76,605
June.....	8	18,205	19,515	18,100	16,600	12,400	14,790
July.....	7	2,471	900	28,000	7,700	1,921	800
August.....	10	5,144	3,627	10,400	6,200	3,094	2,112
September.....	6	8,530	14,200	20,200	19,300	7,223	8,000
October.....	1	600	400	600	400	600	400
November.....	5	2,250	2,225	1,200	1,200	1,200	1,100
December.....	5	10,400	2,735	5,300	3,000	4,600	2,235
Total.....	74	\$132,445	\$123,897	\$350,100	\$364,700	\$741,160	\$110,212
Putnam.							
January.....	1	\$275	\$20	\$1,500	\$500	\$275	\$20
February.....	1	50	50	1,300	2,100	60	50
March.....	1	1,000	1,000	2,500	1,500	9	7
April.....	1	20	1,500	12,000	4,100	28	1,500
May.....	2	1,000	2,010	9,000	2,000	3,005	1,010
June.....	1	12,005					
July.....	2						
August.....	1						
September.....	1						
October.....	2						

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
PUTNAM — Continued.							
November.....	1	\$4,600	\$10,400	\$25,000	\$25,000	\$4,600	\$10,400
December.....	1	200	50	1,200	.....	200	.....
Total.....	12	\$19,160	\$15,037	\$53,500	\$35,200	\$9,168	\$12,937
RENSSELAER.							
January.....	24	\$22,749	\$37,776	\$112,800	\$173,400	\$16,309	\$30,016
February.....	20	18,541	20,025	86,600	77,000	13,041	19,825
March.....	26	38,929	28,614	322,600	153,800	37,419	29,214
April.....	22	20,365	14,867	104,500	21,100	16,715	14,334
May.....	22	12,474	7,178	53,600	19,500	10,974	4,327
June.....	22	21,662	13,195	36,600	26,800	12,212	10,385
July.....	32	30,045	24,336	516,500	1,012,400	27,095	23,186
August.....	35	32,128	28,462	180,600	1,125,600	30,873	26,112
September.....	21	13,698	5,469	39,100	59,600	9,083	4,249
October.....	31	49,027	38,513	117,200	102,200	42,382	36,913
November.....	23	8,362	6,505	61,600	28,100	6,134	4,605
December.....	25	11,901	16,513	102,400	87,600	10,101	16,238
Total.....	303	\$279,698	\$241,443	\$1,734,000	\$1,887,000	\$231,338	\$218,254
ROCKLAND.							
January.....	4	\$3,500	\$1,450	\$1,600	\$900	\$1,550	\$850
February.....	8	7,520	825	19,200	900	7,020	800
March.....	11	60,230	22,525	50,800	12,900	48,280	12,335
April.....	5	53,050	23,000	16,500	35,300	14,500	2,300
May.....	9	11,365	1,930	13,900	9,500	8,690	1,445
June.....	8	12,600	3,850	6,000	2,300	3,420	1,445
July.....	11	8,115	6,426	7,900	.....	3,420	1,525
August.....	7	4,050	1,087	6,800	1,000	3,563	687
September.....	5	1,800	266	3,000	1,500	3,150	166
October.....	2	117	.....	4,000	.....	117	.....
November.....	12	7,295	6,360	22,400	10,700	6,790	4,700
December.....	9	13,810	5,140	12,000	4,200	10,110	4,140
Total.....	91	\$183,452	\$71,878	\$103,600	\$70,200	\$105,992	\$29,948

ST. LAWRENCE.							
7	January.....	\$4,950	\$2,204	\$11,100	\$2,900	\$3,825	\$1,326
22	February.....	40,286	45,057	74,200	46,300	19,111	37,922
11	March.....	5,280	1,964	60,000	77,100	4,080	1,596
16	April.....	14,686	20,333	37,800	26,800	8,971	16,142
8	May.....	7,380	3,380	3,300	1,100	2,590	928
12	June.....	7,580	3,900	11,100	8,600	6,190	2,890
12	July.....	8,225	4,557	18,600	4,900	5,810	3,729
15	August.....	26,214	20,050	16,000	9,800	14,754	9,100
20	September.....	21,083	20,580	44,100	42,600	12,898	19,105
6	October.....	2,350	600	9,200	700	1,300	100
9	November.....	4,990	1,665	17,900	6,100	3,740	1,603
8	December.....	5,385	2,840	12,000	2,800	4,085	1,940
145	Total.....	\$145,309	\$125,532	\$298,400	\$229,700	\$97,354	\$96,379
SABATOGA.							
8	January.....	\$2,572	\$1,678	\$24,100	\$7,100	\$1,822	\$676
12	February.....	5,669	2,841	81,500	162,400	3,260	2,189
9	March.....	4,453	2,632	29,200	5,700	3,958	2,162
14	April.....	7,269	1,641	50,300	53,400	3,149	741
11	May.....	27,670	26,141	67,500	23,600	14,358	9,167
7	June.....	3,721	8,421	23,600	23,600	3,621	8,411
21	July.....	20,200	12,820	36,700	13,600	8,875	8,220
17	August.....	10,821	8,665	53,700	60,500	6,510	5,597
23	September.....	17,308	16,822	68,600	65,100	10,988	11,518
11	October.....	5,166	2,943	17,200	5,000	4,006	1,936
12	November.....	8,833	1,465	11,600	3,300	6,473	1,729
4	December.....	3,515	5,169	4,300	6,200	2,315	4,268
149	Total.....	\$117,202	\$91,294	\$468,300	\$429,500	\$99,444	\$86,614
SCHENECTADY.							
13	January.....	\$7,453	\$2,242	\$50,900	\$20,200	\$7,478	\$1,847
22	February.....	21,652	10,667	101,900	35,300	21,632	10,662
13	March.....	1,622	3,583	55,500	19,400	1,622	2,787
17	April.....	7,868	6,356	68,900	14,300	7,533	6,070
13	May.....	2,804	1,069	48,600	6,400	2,649	984
23	June.....	14,295	3,145	33,700	7,800	11,010	1,420
21	July.....	3,182	2,186	26,200	7,400	2,922	1,876
13	August.....	4,587	6,169	87,100	72,000	4,062	5,934
16	September.....	12,228	7,217	38,400	17,300	11,223	5,607
8	October.....	3,510	11,227	12,700	16,500	910	11,227
7	November.....	20,145	1,366	23,500	3,400	15,125	1,080
11	December.....	315	1,189	16,800	4,860	295	137
170	Total.....	\$99,701	\$55,404	\$558,100	\$223,800	\$86,451	\$49,581

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		'AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
SCHOHARIE.							
January.....	3	\$5,000	\$2,100	\$3,200	\$1,400	\$3,200	\$1,400
February.....	2	500	700	.....	.....	.....	.....
March.....	1	200	100	.....	.....	.....	.....
April.....	.....	.....	.....	.....	.....	.....	.....
May.....	1	3	.....	1,000	.....	3	.....
June.....	1	25	.....	1,000	.....	25	.....
July.....	2	950	805	1,300	1,200	550	605
August.....	6	3,695	2,645	4,500	2,500	2,295	2,245
September.....	3	2,500	3,150	1,800	1,800	1,700	1,800
October.....	2	1,300	25	1,200	.....	1,200	.....
November.....	1	200	700	.....	.....	.....	.....
December.....	.....	.....	.....	.....	.....	.....	.....
Total.....	22	\$14,373	\$10,225	\$14,000	\$6,900	\$8,973	\$6,050
SCHUYLER.							
January.....	4	\$6,325	\$4,200	\$2,600	\$2,300	\$2,225	\$2,300
February.....	.....	.....	.....	.....	.....	.....	.....
March.....	.....	.....	.....	.....	.....	.....	.....
April.....	2	1,500	1,400	800	1,000	800	1,000
May.....	5	15,600	3,350	3,000	1,100	3,000	1,100
June.....	.....	.....	.....	.....	.....	.....	.....
July.....	5	2,160	1,640	6,000	1,800	1,460	1,415
August.....	1	1,140	1,450	1,000	1,500	1,000	1,450
September.....	3	2,480	2,105	2,100	1,500	1,110	1,500
October.....	2	1,600	250	800	.....	800	.....
November.....	5	3,035	1,385	5,100	3,200	2,635	1,210
December.....	1	5	.....	200	.....	5	.....
Total.....	28	\$33,825	\$15,880	\$21,000	\$12,400	\$13,035	\$9,975
SENECA.							
January.....	1	.....	.....	.....	.....	.....	.....
February.....	.....	.....	.....	.....	.....	.....	.....
March.....	2	\$500	\$0	\$500	\$400	\$400	\$0
Total.....	.....	7,498	.....	20,200	.....	7,400	.....

April.....	250	1,000	500	150	.....
May.....	1,050	9,000	1,100	9,000	.....
June.....	3,100	1,300	2,800	800	2
July.....	1,401	800	3,200	800	500
August.....	21,000	7,700	400	7,000	350
September.....	1,750	1,000	400	1,000	400
October.....	3,260	5,000	2,000	2,860	865
November.....	5	1,000	500	6	.....
December.....	18,530	7,300	1,500	7,800	1,500
Total.....	\$68,344	\$63,100	\$9,800	\$36,413	\$3,653
STREUBEN.					
January.....	\$6,561	\$97,800	\$41,400	\$5,716	\$3,696
February.....	44,819	94,400	41,100	21,819	7,431
March.....	15,402	62,716	597,100	13,877	5,446
April.....	18,240	38,500	30,700	14,585	7,872
May.....	12,491	67,200	52,700	9,991	16,435
June.....	3,910	2,420	41,900	2,015	2,380
July.....	4,594	68,000	263,400	4,414	28,905
August.....	4,745	229,800	112,000	3,088	752
September.....	8,838	1,477	9,700	5,578	3,124
October.....	8,487	4,344	134,100	6,412	2,266
November.....	5,324	6,766	78,200	3,179	3,965
December.....	5,016	232,700	66,900	1,616	2,713
Total.....	\$198,457	\$1,877,400	\$1,467,200	\$90,260	\$84,905
SUFFOLK.					
January.....	\$9,455	\$5,800	\$5,600	\$4,505	\$2,696
February.....	2,409	31,100	8,600	1,879	3,629
March.....	280	2,600	1,000	180	50
April.....	43,800	35,700	7,300	33,200	7,300
May.....	8,675	15,100	3,500	5,765	1,075
June.....	4,200	8,100	100	2,900	100
July.....	13,150	14,200	6,700	8,550	5,350
August.....	9,190	36,000	7,700	8,940	3,855
September.....	7,110	23,500	7,100	7,030	3,050
October.....	10,225	8,200	1,900	7,875	1,900
November.....	4,650	7,800	3,200	3,750	3,200
December.....	5,490	10,900	5,300	4,575	2,200
Total.....	\$118,634	\$199,100	\$58,000	\$96,249	\$33,905
SULLIVAN.					
January.....	\$750	.....	\$2,200	.....	.....
February.....	5,200	.....	7,600	.....	.....
March.....	6,525	.....	.....	.....	.....
		\$3,300	.....	\$2,650	\$1,750
		6,900	.....	3,925	7,407

TABLE No. 7 — Continued.

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
SULLIVAN — Continued.							
April.....	3	\$1,953	\$1,440	\$2,600	\$700	\$1,153	\$240
May.....	1	40		1,500	1,000	40	30
June.....	1	56,525	74,831	94,700	48,500	56,525	48,500
July.....							
August.....	4	3,045	1,175	1,600	500	1,445	500
September.....	2	85	178	4,000	500	85	178
October.....	4	2,300	575	2,400	200	1,900	75
November.....	2	513	320	400	200	213	70
December.....							
Total.....	29	\$76,936	\$92,956	\$117,100	\$61,400	\$67,936	\$58,750
TIOGA.							
January.....	4	\$4,220	\$2,215	\$4,000	\$2,000	\$3,020	\$1,315
February.....	5	10,900	8,400	6,700	5,300	6,600	4,900
March.....	1	2,000	500	500	300	500	300
April.....	1	500	600	500	800	500	600
May.....							
June.....	3	1,325	479	3,500	1,000	525	29
July.....	6	2,950	1,170	3,800	5,000	1,150	760
August.....	2	1,600	950	900	750	850	750
September.....	4	6,050	6,280	7,700	5,800	4,400	3,760
October.....	4	1,555	300	3,900	100	1,355	100
November.....	3	2,400	1,400	1,400	500	1,400	500
December.....							
Total.....	33	\$33,500	\$22,374	\$32,900	\$21,550	\$20,300	\$13,014
TOMPKINS.							
January.....	5	\$1,840	\$1,500	\$14,800	\$2,000	\$1,840	\$1,300
February.....	6	13,734	7,794	41,900	44,400	10,760	7,619
March.....	3	4,500	2,214	7,700	9,300	3,300	1,814
April.....	5	2,435	2,900	16,800	4,800	2,475	1,640
May.....	3	11,550	36,575	11,000	1,000	10,150	1,575
June.....	5	2,280	1,535	3,800	5,200	2,250	1,475

July.....	5	9,510	3,160	12,600	7,000	7,710	2,680
August.....	6	1,996	800	8,800	1,200	1,996	800
September.....	8	4,250	8	3,800	1,600	.....	5
October.....	1	4,600	1,000	6,000	2,000	4,500	1,000
November.....	7	34,815	6,950	19,900	6,500	1,715	4,450
December.....	2	3,800	15,000	7,000	18,000	3,000	15,000
Total.....	50	\$91,240	\$79,123	\$153,300	\$102,900	\$49,696	\$38,028
ULSTER.							
January.....	12	\$5,523	\$3,378	\$15,900	\$3,600	\$2,873	\$1,178
February.....	7	2,545	2,655	9,600	4,400	1,545	1,655
March.....	10	8,031	6,877	122,800	5,300	5,406	8,377
April.....	10	28,963	3,395	4,900	2,800	26,060	445
May.....	8	30,895	26,019	7,400	2,800	6,035	2,019
June.....	9	18,939	3,667	64,100	11,400	16,389	1,417
July.....	9	14,071	6,522	18,500	3,000	1,722	9,846
August.....	9	24,450	32,400	18,100	31,000	18,100	31,000
September.....	6	6,067	1,641	20,200	10,000	4,487	1,141
October.....	9	11,000	6,000	7,600	6,300	7,600	4,800
November.....	9	6,760	3,000	10,100	1,400	4,160	1,400
December.....	12	16,186	6,570	17,100	8,600	9,536	4,630
Total.....	106	\$173,790	\$112,124	\$316,300	\$90,600	\$112,037	\$54,274
WARREN.							
January.....	5	\$3,196	\$990	\$12,500	\$5,100	\$3,196	\$990
February.....	10	9,496	4,325	16,900	6,300	6,296	2,725
March.....	6	4,855	11,550	15,500	33,600	4,845	11,550
April.....	6	1,567	1,348	6,900	4,500	1,347	1,313
May.....	8	3,073	9,135	168,400	16,100	3,068	5,110
June.....	4	4,294	743	17,300	4,500	4,294	4,743
July.....	10	10,546	594	36,500	3,300	1,516	34
August.....	13	14,193	17,358	113,200	187,900	4,193	14,858
September.....	9	1,786	961	14,400	7,700	711	14,461
October.....	6	1,618	249	26,900	16,900	618	249
November.....	6	697	50	12,700	17,100	527	50
December.....	9	7,343	7,918	39,600	75,700	5,943	7,263
Total.....	97	\$61,604	\$55,116	\$480,200	\$378,700	\$36,554	\$45,276
WASHINGTON.							
January.....	4	\$5,575	\$2,900	\$5,400	\$700	\$5,350	\$700
February.....	7	19,450	2,965	42,500	6,900	12,000	2,465
March.....	5	7,200	11,325	6,600	3,100	5,500	3,100
April.....	7	5,740	11,100	11,700	4,700	5,540	5,210
May.....	7	4,716	1,650	2,700	2,500	1,130	1,135
June.....	6	3,505	25	4,100	500	2,305	5

TABLE No. 7 — *Concluded.*

COUNTY.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.		AMOUNT OF SETTLEMENT.	
		Building.	Contents.	Building.	Contents.	Building.	Contents.
COUNTRY.							
July.....	7	\$3,495	\$1,180	\$6,300	\$1,200	\$2,285	\$710
August.....	7	18,157	17,898	7,000	7,000	3,997	6,502
September.....	3	1,775	885	2,800	1,600	1,775	535
October.....	3	2,190	1,150	2,800	1,400	1,660	715
November.....	4	1,300	1,503	5,800	3,800	1,300	1,603
December.....	6	8,055	6,915	8,100	5,600	5,680	5,100
Total.....	66	\$81,148	\$59,446	\$105,300	\$39,000	\$48,452	\$27,975
WAYNE.							
January.....	9	\$826	\$245	\$30,000	\$12,900	\$826	\$245
February.....	4	2,722	1,780	4,200	1,800	1,522	1,280
March.....	3	35	100	7,100	2,400	35	100
April.....	6	7,814	13,400	28,100	20,000	6,414	12,785
May.....	3	1,640	945	4,000	3,850	1,640	945
June.....	5	1,560	690	9,500	7,000	1,250	480
July.....	12	12,399	7,996	20,100	24,100	6,769	6,846
August.....	4	4,591	3,285	5,500	2,700	2,391	2,010
September.....	2	1,600	690	300	300	500	90
October.....	4	4,200	4,300	7,400	13,300	2,900	3,800
November.....	2	300	62	1,800	1,000	300	12
December.....	5	3,375	2,645	3,500	2,500	1,875	1,620
Total.....	59	\$41,022	\$36,138	\$120,700	\$91,800	\$26,422	\$30,168
WESTCHESTER.							
January.....	65	\$87,099	\$85,841	\$293,600	\$110,000	\$68,139	\$38,466
February.....	45	20,800	54,482	341,000	187,600	30,436	64,192
March.....	47	128,971	59,271	245,300	96,600	94,321	55,256
April.....	35	86,110	21,388	338,700	69,500	69,700	19,661
May.....	47	43,989	16,789	219,500	53,700	36,919	15,279
June.....	46	43,408	17,989	271,300	52,200	39,781	13,209
July.....	40	124,148	63,122	721,200	47,100	72,048	22,485
August.....	37	22,108	13,472	177,900	36,400	17,596	12,697
September.....	33	107,693	143,709	313,400	200,000	107,018	141,187

October.....	35	20,024	22,732	283,500	198,000	28,970	20,762
November.....	37	19,133	9,910	394,500	178,800	18,548	8,665
December.....	56	99,910	62,680	374,800	123,600	80,510	56,060
Total.....	566	\$818,605	\$571,345	\$3,476,400	\$1,274,400	\$619,875	\$443,737
WYOMING.							
January.....	3	\$3,221	\$9,488	\$12,700	\$10,500	\$2,771	\$8,000
February.....	3	570	673	3,500	1,500	570	673
March.....	2	538	480	3,500	1,700	388	180
April.....	1	245	23	1,200	.....	245	.....
May.....	6	610	716	12,600	6,000	610	686
June.....	2	3,400	1,860	2,800	1,400	2,500	1,850
July.....	3	1,715	500	2,600	500	1,715	500
August.....	.....	.....	.....	.....	.....	.....	.....
September.....	2	113	50	2,400	700	113	50
October.....	4	1,060	660	7,900	1,800	1,060	685
November.....	4	4,775	2,560	9,400	4,100	3,875	2,360
December.....	2	130	137	2,500	500	130	112
Total.....	32	\$16,397	\$16,909	\$59,600	\$27,700	\$13,947	\$14,436
YATES.							
January.....	5	\$5,612	\$2,305	\$31,900	\$2,700	\$3,812	\$2,200
February.....	1	800	50	.....	.....	.....	.....
March.....	2	2,875	1,015	2,500	1,000	2,375	790
April.....	1	1,500	1,000	1,000	300	1,000	300
May.....	1	5,061	8,300	5,200	6,000	3,561	6,000
June.....	3	800	2,200	800	1,500	800	500
July.....	9	47,750	17,775	26,500	7,600	26,000	6,725
August.....	9	8,513	3,302	5,600	2,000	4,413	1,602
September.....	2	1,000	110	5,600	1,000	500	100
October.....	2	3,100	2,100	1,200	500	1,200	400
November.....	6	1,100	.....	1,200	.....	.....	.....
December.....	1	3,600	1,250	1,700	1,200	1,700	900
Total.....	49	\$81,711	\$39,407	\$77,700	\$22,800	\$46,161	\$19,517

TABLE No. 8.
SHOWING NUMBER OF FIRES AND FIRE LOSSES IN THE BOROUGH
OF GREATER NEW YORK FOR YEAR 1913.

MONTH	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.	
		Buildings.	Contents.	Buildings.	Contents.
BRONX.					
January.....	106	\$7,540	\$10,922	\$1,596,800	\$171,550
February.....	115	13,360	17,710	1,779,200	114,200
March.....	122	16,055	9,627	1,943,200	123,500
April.....	88	14,060	9,985	1,143,700	261,750
May.....	130	40,740	20,710	1,687,550	204,850
June.....	119	10,420	6,351	1,966,300	65,300
July.....	151	11,458	14,182	2,235,300	407,150
August.....	22	8,445	7,791	932,000	39,500
September.....	88	14,252	13,590	1,162,100	126,450
October.....	88	23,590	33,572	1,390,800	252,750
November.....	121	8,193	9,124	2,156,500	519,450
December.....	130	69,997	211,414	1,947,500	562,050
Total.....	1,340	\$238,110	\$364,978	\$19,940,950	\$2,848,500
BROOKLYN.					
January.....	372	\$42,745	\$33,900	\$3,279,800	\$1,268,600
February.....	353	93,650	164,850	2,828,750	1,199,895
March.....	342	32,995	26,535	2,734,650	592,400
April.....	309	25,950	22,640	2,522,900	706,650
May.....	318	76,975	72,960	2,104,500	339,725
June.....	308	47,035	74,505	2,509,850	530,600
July.....	370	33,300	38,100	3,271,500	684,875
August.....	290	197,655	247,995	3,642,250	1,206,285
September.....	226	30,570	32,975	1,150,120	364,385
October.....	234	27,780	26,530	2,372,100	1,007,330
November.....	330	142,995	97,135	3,304,050	2,444,890
December.....	403	53,925	68,895	2,922,875	636,850
Total.....	3,855	\$805,575	\$907,020	\$32,643,345	\$10,982,485
MANHATTAN.					
January.....	605	\$90,489	\$190,679	\$13,080,200	\$4,353,050
February.....	569	144,534	342,904	17,272,000	3,149,900
March.....	567	115,237	252,180	15,313,750	3,742,400
April.....	511	90,017	185,405	13,766,100	1,806,270
May.....	507	68,724	161,282	10,263,700	1,380,750
June.....	566	66,336	239,117	11,696,150	1,652,470
July.....	607	118,795	205,729	11,749,200	1,615,150
August.....	494	87,049	151,315	10,808,800	2,271,050
September.....	455	63,309	97,420	9,489,200	1,806,250
October.....	424	58,838	131,938	8,364,600	2,575,950
November.....	651	116,182	346,182	10,879,500	3,243,400
December.....	607	128,620	401,140	15,847,100	3,880,240
Total.....	6,563	\$1,148,130	\$2,705,351	\$148,530,300	\$31,488,800

TABLE NO. 8—*Continued.*

MONTH.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.	
		Building.	Contents.	Building.	Contents.
QUEENS.					
January.....	60	\$18,515	\$11,950	\$259,800	\$91,050
February.....	58	8,255	4,115	391,400	355,900
March.....	62	14,530	6,940	276,750	41,650
April.....	65	13,750	6,400	193,625	46,800
May.....	65	12,060	6,245	264,200	78,600
June.....	72	72,155	207,585	781,200	985,200
July.....	73	18,850	7,745	259,325	48,200
August.....	69	62,320	137,955	675,900	55,000
September.....	57	8,415	5,820	154,400	29,580
October.....	40	5,655	3,440	143,900	109,500
November.....	75	74,350	91,125	295,000	153,760
December.....	82	46,895	128,325	251,000	81,800
Total.....	778	\$355,750	\$617,645	\$3,966,500	\$2,077,040
RICHMOND.					
January.....	22	\$16,550	\$11,108	\$32,000	\$30,000
February.....	24	2,880	2,055	26,650	7,700
March.....	60	94,735	25,738	135,000	53,950
April.....	42	69,138	3,610	61,100	12,700
May.....	44	5,815	4,481	431,300	758,000
June.....	27	7,510	3,011	25,080	3,500
July.....	44	2,075	1,674	56,650	19,900
August.....	19	5,028	1,280	28,250	4,950
September.....	23	5,800	3,980	26,100	9,650
October.....	19	2,830	95	11,100	.....
November.....	42	3,050	505	27,850	4,000
December.....	53	28,045	24,445	148,700	65,500
Total.....	419	\$243,456	\$81,982	\$1,009,980	\$969,850

TABLE No. 9.

SHOWING THE CAUSES OF FIRES REPORTED TO THE FIRE MARSHAL BY HIS ASSISTANTS DURING 1913:

Ashes, hot	116
Chimney fires, overheated or defective.....	767
Children and matches.....	350
Careless smokers	357
Christmas tree fires.....	28
Defective gas fixtures.....	192
Defective fire places.....	60
Electric lights, defective insulation.....	158
Fireworks.	77
Friction or sparks from machinery.....	38
Gasoline, explosion or careless use of same.....	173
Gas, explosion or careless use of same.....	37
Incendiary or suspicious.....	173
Lamps, lanterns or candles, explosion or overturned.....	397
Lightning.....	210
Matches, careless use.....	562
Moving picture machines.....	3
Not fully ascertained, or unknown.....	3,087
Rats and matches.....	42
Sparks from locomotives.....	157
Furnace or steam pipes, overheated or defective.....	146
Stoves and ranges, overheated.....	863
Spontaneous combustion.....	10
Thawing pipes.....	32
Total.....	8,073

TABLE No. 10.

CLASSIFICATION OF FIRES AS TO STRUCTURES.

Automobiles.	110
Barns.	1,197
Churches.	38
Dwellings.....	4,030

Factories and mills.....	401
Garages.....	123
Hospitals.....	12
Hotels.....	174
Schools.....	54
Sheds.....	161
Shops.....	133
Stores and dwellings combined.....	878
Stores and offices combined.....	343
Theatres and halls.....	51
Miscellaneous.....	363
Total.....	8,073

TABLE No. 11.

The following table is a record of small fires reported by fire insurance companies but not reported by assistants of this Department. Fire chiefs had no knowledge of most of them, nor was their different departments called to same.

MONTH.	Number of fires.	ESTIMATED DAMAGE.		AMOUNT OF INSURANCE.	
		Building.	Contents.	Building.	Contents.
1913.					
January.....	711	\$14,443	\$10,110	\$1,786,100	\$1,009,390
February.....	795	14,639	10,036	2,122,840	573,435
March.....	673	13,029	10,307	2,842,608	632,877
April.....	609	11,089	10,451	2,245,060	471,910
May.....	802	20,563	14,192	1,830,845	696,639
June.....	944	24,667	13,043	2,699,794	466,977
July.....	1,113	26,997	14,496	2,291,820	683,533
August.....	939	24,563	11,183	1,701,367	424,513
September.....	709	13,713	10,723	1,136,738	313,621
October.....	618	8,214	13,251	917,142	358,736
November.....	578	7,600	7,453	657,865	395,764
December.....	341	4,003	4,067	423,202	206,905
Total.....	8,832	\$183,518	\$129,311	\$20,655,381	\$6,234,300

TABLE No. 12.

NUMBER OF FIRES REPORTED TO THE DEPARTMENT FROM ALL
SOURCES FOR THE YEAR 1913.

	Number of fires.	ESTIMATED DAMAGE.		
		Buildings.	Contents.	Total loss.
Greater New York.....	12,955	\$2,791,021	\$4,676,976	\$7,467,997
Reported by the Assistant Fire Marshals outside of Greater New York.....	8,073	9,857,676	6,484,070	16,341,746
As reported by insurance com- panies.....	8,832	183,518	129,311	312,829
Total.....	29,860	\$12,832,215	\$11,290,357	\$24,122,572

PART IV.

**Instructions to Inspectors and Assistants — Proclamations —
Instructions for Fire Drills in Schools and Factories —
Specifications for Fire Escapes — Miscellaneous
Forms — Address Letter to Governor Sulzer.**

PART IV.

INSTRUCTIONS TO INSPECTORS AND ASSISTANTS.

STATE OF NEW YORK,

DEPARTMENT OF STATE FIRE MARSHAL.

To the Inspectors and Assistants of the Department:

GENTLEMEN.—Your attention is called to chapter 453 of the Laws of 1912, a copy of which is inclosed.

Note particularly sections 353, 354, 356, 358, 369, 372 and 374.

You are subject to the duties imposed by statute and the regulations prescribed by the State Fire Marshal.

Read the law carefully.

Your authority and duties concern fire prevention, storage or use of combustibles or explosives, installation and maintenance of automatic or other fire-alarm systems and fire-extinguishing equipment, means and adequacy of exit, fire drill, suppression of arson and investigation of fires and explosives.

The work of the inspectors and assistants forms the foundation of the operations of this Department.

The results of the inspectors' work are transmitted to the Department on the blank designated "Report of Inspection of Premises."

The orders issued will be based on the data in the report. These reports must be made with great care, so as to disclose the whole situation.

The work of the Department is, primarily, for the protection of life, and secondarily, for the protection of property. Inspectors will bear this in mind when making their recommendations, and will endeavor to accomplish these ends with as little expense to the owners of property as practicable.

Each item in the report has a specific value, and the orders

issued are based, not on any one item, but on the relations that the various items bear to one another.

Inspect public buildings at least once a year.

Inspect other premises on complaint made or, if necessary, even if none is made.

Report fully as to any condition of affairs dangerous to life or property, even if you should find no specific provision of law to apply.

In all places where many work or congregate, owners, occupants or lessees should take every precaution to reduce the fire hazard, and all fire appliances should frequently be tested, and automatic sprinkler and standpipe systems should be maintained.

Follow the law closely in serving orders.

Follow up cases in which orders have been made to see that they are complied with.

Keep personal notes of your work to help your memory, if your testimony is required as a witness.

Under chapter 350 of the Laws of 1912 fire drills must be conducted at least once in every three months under the supervision of the local fire department or one of its officers, in every factory in which more than twenty-five persons are regularly employed above the ground floor.

Rules for such drills are prepared by this Department.

Do not interfere where fire drills are regularly observed.

Order them only where they are not practiced, but not oftener than judicious, and not to cause needless interference and annoyance.

Report as to the number of anti-smoking cards required, allowing two for each floor of a factory.

Notify owners and lessees of boilers to file certificates of inspection and notify this Department of the location of all boilers generating ten pounds of steam or over.

File no violation against premises except as provided by law.

Report to this Department the name and address of every person or firm storing, selling or handling explosives under section 358.

Fill out carefully the blanks in the forms sent to you, and be

specific and not merely general in your descriptions and recommendations.

Write your reports legibly, concisely and yet full enough.

Inadequate, merely general and inexact reports are of no service.

Have a photo taken of dilapidated or dangerous premises or conditions or of objects, or of arson evidence, transmit it with your report, endorsing it with location of view and name of owner, occupant or agent.

Moving-picture booths and apparatus must comply with chapter 756, Laws of 1911.

Date.— The importance of the date of the report is evident. It will show when premises came under observation, the promptitude of action and the diligence of the Department in its work.

Location.— The location should be indicated by street and number where possible, and otherwise by sufficient description to enable the location of the premises to be readily ascertained.

Size and Material.— These should give a graphic picture of the ground area and fire-resisting ability of the building. The inspector might add whether the building is nonfireproof, semi-fireproof, fireproof or merely fire-resistant.

Height.— The height of the building is important in many respects. Sometimes the law specifies auxiliary fire appliances for buildings of varying height, and the height is also important as to the requirements for fire-escapes, automatic sprinklers and standpipes. If possible, the date of erection of buildings should be given.

Purpose of Building.— Much of the order will be determined by this entry. In this respect again the question of fire-escapes, sprinklers and standpipes would be affected. Then, too, this entry would disclose whether it be used for factory or other purposes. So, too, the nature of the business would be disclosed.

Owner, Occupant or Lessee.— The orders are made out on the owners of buildings and these may be supplemented by orders on the lessees and occupants, and the obtaining of the names of owners, proprietors, occupants or lessee is absolutely necessary, so that the order may be given the proper parties and legal serv-

ice made on them, as required by statute. Where the owner, proprietor, occupant or lessee is a corporation, the order must be issued to the corporation and served on the president, vice-president, treasurer or secretary. Then, too, the number of persons in the building, employees and others, indicates the extent of the problem of saving human life. This factor largely controls the number of stairways, fire-escapes and other means of exit that will be required. Where the report deals with hotels, lodging-houses, hospitals and asylums the item of watchman becomes a factor. The seating capacity of a theater in orchestra, balcony, gallery and a total should be given. In every case of a building in which many congregate, the approximate number should be given. The number of sleeping-rooms and the accommodations provided will also indicate or determine the character of the building.

Outside Escapes.— This factor must be considered in conjunction with the number of stairways, floor area and height of building. The location of the fire-escapes and stairways should be clearly shown as a proper distribution of means of exit is as necessary as their sufficiency. If the stairway is in the front of the building, the proper location of a fire-escape, if practicable, would be on the rear of the building and this should be kept in mind when recommendations are made that additional fire-escapes be installed. The report should state the condition of the stairs and fire-escapes and particular attention should be paid to this item. If the statement is made that it is bad, the reasons should be set forth, so that the order to remedy the condition may specify what bad conditions must be remedied. The statement whether a stairway should be enclosed or not is essential, for under some conditions an enclosed stairway is a necessity. For instance, where the business carried on in various lofts is of such a nature that a fire would spread quickly, it is necessary that the stairways be enclosed to give protection to the occupants in making their exit and to prevent the spreading of the fire from floor to floor.

Elevator and Shafts.— The report should state whether these operate in the day only or at all hours, so as to indicate whether or not the law is or is not being obeyed in buildings where the

law requires elevator service at all hours. It is not the policy of the Department to consider elevators a means of exit during an emergency. Under normal conditions they give satisfactory service and may be of considerable assistance during fires, but the certainty of their service under these trying conditions is not assured and, for that reason, they are not considered a means of exit.

Fire Alarm Connections.— These are generally required from hotels, lodging-houses, hospitals, asylums and schools. In the same class of buildings are required interior alarm systems, the number of gongs, and size, and their location, indicating to an inspector the sufficiency of the system for giving an alarm. The method of operation and its condition is also necessary, so that an order may be intelligently issued; what repairs are required for the same, the name of the time detector, the number of stations that are operated from it and the condition of the detector are all essential, so that the records, made on the time detector by the watchman, may be used to see if he has properly patrolled.

Standpipes.— The number of these and the size of the risers should be considered in the report. The cross connections must be shown. The number of outlets, their size, location, with the number of feet of hose attached and their condition are all important factors in the proper protection of the building. The source of supply to standpipe is important for, if the supply is from tank only, a steamer connection should be ordered installed at once. Where buildings have different street frontages, siamese connections are required on each frontage. The size and kind of nozzles, where placed and the area which they can cover should be noted, as also their condition. The number of lines of perforated pipes in cellar or sub-cellar and their condition must be noted.

Sprinkler Systems.— Where these are installed their condition will be shown, source of supply, the number and size of steamer connections, with signs, location of tanks, their size, capacity in gallons, source of supply and how that supply is regulated, the normal capacity of the supply pump in gallons per minute, the power used to operate the pump, the style and size of pump and from what source the pump receives its supply.

The number of buckets, hooks, axes, fire-extinguishers, how placed and their condition, will be shown in the report.

The report must show whether or not signs in halls, lights with red globes, and diagrams are provided in buildings where the law requires them.

The general conditions, also openings in floors and walls should be shown. These are: light shafts, vent shafts, elevator shafts, pipe and other openings. The heating and lighting systems will be indicated and their general conditions. The condition of the existing fire doors, fire shutters, and whether combustibles or explosives are kept on the premises will be shown.

Note will be made whether or not licenses have been obtained for the storage, sale or handling of combustibles or explosive material.

Rubbish.—The method of disposing of refuse and the conditions of receptacles, where same is stored, will be noted; also the general appearance as to cleanliness.

The width of stairways and fire-escapes will be indicated in the report, as also the width of halls and the condition of each.

The nature of stock on each floor should be shown, portable fire appliances on that floor and the number of occupants on each floor.

Recommendations.—Under this heading full explanations will be given of any conditions not completely shown in the body of the report.

The recommendations must be based on the facts shown in the report, and none should be made unless some condition in the report justifies it.

The report must be signed with the name and rank of the person making the inspection.

Payments will only be allowed for actual outlay. Expense accounts must be made out conscientiously and in detail.

The State Fire Marshal must largely depend upon his inspectors and assistants. He acknowledges your valuable help in the past and appeals to you most earnestly to do all in your power to aid him to enforce the law, protect life and save property.

THOMAS J. AHEARN,

State Fire Marshal.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL.

To Assistant State Fire Marshals:

GENTLEMEN.—Your attention is called to chapter 453 of the Laws of 1912, a copy of which is enclosed.

Note particularly sections 353, 354, 356, 358, 369, 372 and 374.

As an Assistant to the State Fire Marshal, you are subject to the duties imposed by statute and the regulations prescribed by him.

Read the law carefully.

Your authority and duties concern fire prevention, storage, sale or use of combustibles or explosives, installation and maintenance of automatic or other fire-alarm systems and fire-extinguishing equipment, means and adequacy of exits, fire drills, suppression of arson, and investigation of fires and explosives.

Inspect public buildings at least once a year.

Inspect other premises on complaint made or, if necessary, even if none is made.

Report fully as to any condition of affairs dangerous to life or property, even if you cannot find a specific provision of law to apply.

In all places where many work or congregate, owners or lessees should take every precaution to reduce the fire hazard, and all fire appliances should frequently be tested, and automatic, sprinkler and standpipe systems should be maintained.

Follow the law closely in serving orders.

Follow up cases in which orders have been made to see that they are complied with.

Keep personal notes of your work to help your memory, if your testimony is required as a witness.

Under chapter 330 of the Laws of 1912 fire drills must be conducted at least once in every three months under the supervision of the local fire department or any of its officers, in every factory in which more than twenty-five persons are regularly employed above the ground floor.

Rules for such drills are prepared by this Department.

Do not interfere where fire drills are regularly observed.

Order them only where they are not practiced, but not oftener than judicious, and not to cause needless interference and annoyance.

Notify owners and lessees of boilers to file certificates of inspection, and notify this Department of the location of all boilers generating over ten pounds of steam.

File no violations against premises, except as provided by law and be specific in your details.

Investigate every fire or explosion and determine whether it was the result of carelessness or design.

Begin such investigation immediately.

If of suspicious origin or caused by negligence or design, notify the State Fire Marshal at once.

Report every explosion due to carelessness or design in writing immediately, and every fire within fifteen days.

Report to this Department the name and address of every person or firm storing, selling or handling explosives under section 358.

If you believe a formal investigation necessary as to a suspicious or incendiary fire, notify the State Fire Marshal immediately.

If you think a fire incendiary, give fully your reason and the facts on the back of report card.

Incendiary fire investigations should be quietly conducted, giving nothing out prematurely, so as not to defeat the ends of justice. Preserve any physical evidences of arson.

Report on the last of every month, false and unnecessary alarms of the preceding month, omitting details.

Fill out carefully the blanks in the forms sent to you and, especially in fire reports, give your personal estimate of damage to structure and contents and, if possible, the amount of insurance paid.

Write your reports legibly, concisely and yet full enough.

Have a photograph taken of dilapidated or dangerous premises or conditions, or of arson evidence, transmit it with your

report, endorsing it with location of view and name of owner or agent.

Moving-picture booths and apparatus must comply with chapter 756 of the Laws of 1911.

Inadequate, merely general and inexact reports are of no service. "Carelessness" should also disclose by whom and in what regard.

"Adjoining fire" refers to one started from the heat or sparks of a nearby burning building and should be recorded on the card under "extended damages."

"Extended damages" covers damage done through the spread of fire to adjacent property and should be noted.

"Ashes against wood" covers fires started by putting hot ashes or coals into boxes or barrels against siding or fences. If a coal is dropped through a crack in a stove, it should be charged to "defective stove."

"Burning rubbish" indicates sparks from a pile of rubbish burned to get rid of it.

"Rubbish burning" means that a spark or blaze, by accident, lighted rubbish accumulated from neglect.

"Chimney soot burning" refers to fires from a dirty chimney burning out.

"Defective flue" is a common cause. The word flue indicates the whole avenue of escape from the fire to the outer air. It is the stovepipe and chimney taken together.

"Overheated stove" is not sufficient. State whether floor, siding or other material was ignited.

Failure to properly install and care for heaters is a fruitful source of fire.

"Spark" is insufficient. State whether from an engine and what kind — locomotive, stationary or traction.

"Lightning" should also show whether there was a lightning rod, how long up, in good repair, how grounded, were two ends in the ground.

Unless a report is properly made out you cannot be paid.

Time consumed in investigating fires must be accurately stated.

Payments will only be made for services actually rendered.

False-alarm reports are not paid for.

Expense accounts must be made out conscientiously and in detail, giving the date, name and location of fire and number of miles traveled.

Under chapter 329 of the Laws of 1912, smoking in factories is prohibited. Appropriate cards will be distributed. Notify this Department of the number of cards you require, allowing for two on each floor.

Notify the State Fire Marshal of any changes in fire chiefs, town clerks or other assistants.

The State Fire Marshal must largely depend upon his assistants and inspectors. Their work forms the foundation of the operations of this Department. He acknowledges your valuable help in the past and appeals to you most earnestly to do all in your power to aid him to enforce the law, protect life and save property.

THOMAS J. AHEARN,

State Fire Marshal.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY, N. Y., *December 14, 1913.*

**A FEW TIMELY HINTS FOR THE PREVENTION OF FIRES DURING
THE HOLIDAY SEASON.**

The custom of merchants decorating places of business for the holiday trade is a most hazardous one from the standpoint of fire. The decorating of churches and schoolhouses for Christmas trees and other means of entertainment is also dangerous. The promiscuous use of fireworks, is at all times a menace to life and property. Statistics show that more fires occur in the month of December than any of the other winter months and principally from hazards known as electric wiring, parlor matches, cigars and cigarettes, and unusual inflammable conditions existing by reason of promiscuous use of decorations for Christmas purposes. Many children are burned to death annually by reason of these decorations from Christmas candles.

Do not decorate your Christmas tree with paper, cotton or any other inflammable material. Use metallic tinsel and other non-inflammable decorations only, and set the Christmas tree securely so the children in reaching for things cannot upset the same.

Do not use cotton to represent snow. Use instead asbestos fibre.

Watch cigar, cigarette and pipe smokers. Do not permit them to "light up" inside entertainment places.

Do not make the slightest change in electric wiring without consulting electrical inspectors.

Do not permit children to light or relight candles while adults are not present. They frequently set fire to their clothing, and the tree itself will burn when the needles become dry. Candles are meant to be lighted and the children, if they can get matches, will experiment with them.

A house of merriment is better than a house of mourning.

Every city and town in the State that has not enacted an ordinance prohibiting the use of fire-works should do so at once.

READ YOUR INSURANCE POLICIES. Before attempting any hasty or ill-advised decoration which may cause fire *examine your insurance contracts* and see if the policies contain anything like this:

"This entire policy, unless otherwise provided, by agreement indorsed hereon or added thereto, shall be void, etc. If the hazard be increased by any means within the control or knowledge of the insured."

If you burn you want your indemnity. Do nothing, therefore, to impair your contract.

These suggestions are given to the public for the purpose of arousing to a point of alertness that will prevent as far as possible a repetition of fire losses that have heretofore marked Christmas celebrations. It is the desire of this Department that every person shall have a right Merry Christmas without the danger of holiday fires in stores, churches and bazaars, which, while filled with people, are usually *holocausts*.

THOMAS J. AHEARN,
State Fire Marshal.

PROCLAMATION BY THE GOVERNOR INSTITUTING STATE FIRE PREVENTION DAY.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

The subject of the conservation of our resources has, of late, deservedly received the most careful attention.

Our forests are to be preserved, our water power and waterways developed and utilized, and the hidden forces of nature made subservient to the well-being of man. A signal example is afforded by the Conservation Law of 1911 which now safeguards the natural resources of the State.

In line with this policy there can be no doubt of the imperative need of the study of the fire waste with a view to its prevention and reduction.

The fire losses and cost of fire prevention in the United States amount annually to \$480,000,000, or more than the total American production of gold, silver, copper and petroleum each year. The equivalent of a \$5,000 home is destroyed every ten minutes. In one year 1,449 persons lost their lives and 5,654 were injured in fires.

In one year we had 300 fires in the Adirondacks alone. In but three months, October, November and December, 1911, there were in this State, outside of Greater New York, 3,001 fires with a loss of \$2,884,757.

Statistics could readily be multiplied, if necessary, to show the appalling waste of property and loss of life occasioned by fires, at least 65 per cent. of which are caused by carelessness or ignorance.

For the reasons herein set forth, in order to rouse our people to a vivid sense of fire dangers and induce them to take a more active interest in the subject, I hereby proclaim

WEDNESDAY, OCTOBER 9, 1912,

as STATE FIRE PREVENTION DAY, and I earnestly recommend that our people observe it by a general cleaning up and removal of all rubbish, trash and waste, and a setting of their heating apparatus and chimneys in proper condition for winter use.

Let all public and private institutions, hotels, asylums, factories and theatres be looked over on that day and when necessary add anything that will further protect the safety of the occupants.

Let local authorities give attention to the matter of better building regulations, fire protection and prevention, as well as adequate provision for apparatus for fire fighting.

Lastly, let fire drills be held on that day in institutions, factories, private, public and parochial schools, and let teachers instruct pupils through short talks and appropriate program on the dangers of fire and means of prevention.

GIVEN under my hand and the Privy Seal of
the State at the Capitol in the City of
Albany, this 25th day of September, in
the year of our Lord one thousand nine
hundred and twelve.

State of New York.
Executive Privy Seal.

JOHN A. DIX.

By the Governor:

JOHN A. MASON,

Secretary to the Governor.

Filed in the office of the Secretary of State, September 25, 1912.

EDWARD LAZANSKY,

Secretary of State.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

By virtue of the authority in me vested by the Constitution and the Laws of this State, and in furtherance of a salutary custom heretofore observed, I have appointed and do hereby appoint, Thursday, the 9th day of October, in the current year of our Lord, one thousand nine hundred and thirteen, as Fire Prevention Day.

Appalling disasters from fire, involving great loss of human life and destruction of vast values of property, admonish us that prevention, so far as human foresight can accomplish it, is wise public policy and a necessary safeguard for the lives and property of all citizens. As the dangers from this destructive force of the elements are naturally more pronounced in communities, where com-

pact conditions furnish fuel for fire, the co-operation of local authorities in cities, towns and villages is particularly desirable to recommend, suggest and carry out such plans and arrangements as will best accomplish the prevention desired.

I, therefore, direct the Fire Marshal of the State to supervise and direct the observance of Prevention Day, and I request all our citizens and all public boards and officers to co-operate with the Fire Marshal in such regulations as he shall suggest for this appointed day for the promotion of the safety and security of life and property in our State.

GIVEN under my hand and Great Seal of our State of New York this 29th day of September, in the year of our [SEAL] Lord, one thousand nine hundred and thirteen.

MARTIN H. GLYNN.

By the LIEUTENANT-GOVERNOR, ACTING GOVERNOR,

FRANK A. TIERNEY,

Secretary to the Acting Governor.

By authority vested in me by proclamation of the Acting Governor of the State of New York, Hon. Martin H. Glynn, I would suggest to the people of the State of New York the following observance for FIRE PREVENTION DAY.

Let our people observe it by a general cleaning up and removal of all debris, rubbish and inflammable material, also that chimneys be carefully gone over and placed in proper condition for winter use.

That all public and private institutions, hotels, asylums, factories and theaters be carefully looked over on that day and when necessary add changes that will further promote the safety of the occupants.

Let local authorities give attention to the matter of better building regulations, fire protection and prevention as well as to added apparatus for fire fighting.

Let fire drills be held on that day in institutions and practiced in public, private and parochial schools, and let teachers in the public schools instruct their pupils, through short talks and proper

programs, on the dangers of fire and the simpler means of fire prevention.

Let a campaign of education along the lines of fire prevention be instituted in every factory, public building, theater, or place where people live or congregate.

Let publicity through the State and national press associations by timely news articles pertaining to fire prevention and fire protection be spread broadcast throughout the country.

One of the most prolific sources of the economical waste in the United States has been in the destruction of property by fire. The annual fire loss and cost of prevention in the United States amounts to \$480,000,000, or more than the total American production of the precious metals taken from the earth. The number of fires reported in this State during the last fiscal year was 12,835, outside of Greater New York; the total loss \$12,850,000, or an average loss of \$1,000 per fire.

It may be said that these losses were largely indemnified by the insurance paid thereon. But when it is remembered that insurance companies must be reimbursed by the property owners carrying policies, it is seen that in the last analysis the people pay for all this loss. It is then realized that an efficient co-operation between the people, the State fire officials, and the insurance companies would not only greatly reduce the burden of fire loss itself, to say nothing of the conservation of life thereby, but would also cause a substantial reduction in the insurance rates throughout the State, to which end the Department of State Fire Marshal of the State of New York is bending every energy.

Among the many vital problems which will call upon our people for solution, the situation with regard to the waste of energy and resources in all parts of the country by fires is one of the most commanding. The subject of the conservation of our resources, after years of waste, has at last deservedly received most careful attention. Our forests are being preserved, our water power and waterways developed and utilized, and the hidden forces of nature conserved and made subservient to the wellbeing of man.

Statistics show that the fire waste is increasing annually and that there were reported in the last fiscal year 12,835 fires in New York State outside of Greater New York, with a total loss of

\$12,859,954, making an average loss of \$1,000 per fire. Fires damaged or destroyed 4,317 dwellings, 984 barns, 377 factories and mills, and 239 hotels. Among these 933 were caused by overheated stoves and lamps, 722 by defective chimneys, 496 by the careless use of matches, 338 by children using matches, 306 by lightning, and 293 by careless smoking.

The causes of fire are too many to enumerate. These would include at least thirty common causes which are generally ascribed in accounts of fires throughout the United States, yet it does not cover the hundreds of unknown causes from which fires originate. The fire losses and cost of fire prevention in the United States amount annually to \$480,000,000 or more than the total American production of gold, silver, copper and petroleum each year.

The subject of fire prevention must be brought carefully and intelligently before the people of the State of New York. The only means of reaching the people as to the necessity for fire prevention is to bring to their minds in language which is most resolute and even terrifying the dangers which threaten them.

We spend \$300,000,000 or more in fire insurance premiums annually. The national fire waste is one of the greatest of unsolved problems of the United States. The appalling loss of property has instigated the creation of the Department of State Fire Marshal in many of the States throughout the Union, and added protection and material reduction of fire waste in many of these States is due to the activity of their Department of State Fire Marshal. The losses sustained by the fire waste annually constitute an absolute drain upon our resources such as no nation or State can long endure, and the fact that they are largely preventable is a reproach to our people and calls for immediate remedy.

THOMAS J. AHEARN,

State Fire Marshal.

IMPORTANT SUGGESTIONS FOR FIRE PREVENTION.

THOMAS J. AHEARN, *State Fire Marshal, Albany, N. Y.*

The State Fire Marshal calls the attention of the public to the little careless things that cause many fires, destroy many homes and cost many precious lives.

It is the duty of every citizen to make an effort to minimize this evil as much as possible, and for that purpose a careful perusal of the following suggestions and a general compliance with the same in a spirit of sincere co-operation is earnestly recommended.

Albany, N. Y., January 2, 1912.

THOMAS J. AHEARN,
State Fire Marshal.

NEVER

1. Never put your trust in a fireproof building — remember that the contents are not fireproof.
2. Never insure your property for more than its value.
3. Never permit a stove to be set up without a metal protection being placed on the floor under the stove.
4. Never permit a stove pipe to come in contact with a partition — see to it that there is an open space around it.
5. Never allow swinging lamps or gas brackets near a window.
6. Never use paper shades or paper or cotton decorations on your lamps.
7. Never use cotton or other flimsy material for decorations either in store windows or on Christmas trees.
8. Never allow children to light candles on Christmas trees.
9. Never throw hot ashes in a wooden barrel or in alleys or on the street nor permit them to be piled up against buildings or fences.
10. Never start a bonfire near a building.
11. Never permit a child to start a bonfire or go near it.
12. Never permit rubbish, greasy rags, paper and useless waste to accumulate in and around buildings.
13. Never put kindling wood in the oven.
14. Never hang clothing near the stove or stove pipe.

15. Never smoke in bed.
16. Never throw a lighted cigar, cigarette or ashes from your pipe in a place where it might start a fire.
17. Never light a match unless you want to start a fire for something that is needed.
18. Never leave matches around where children can reach them.
19. Never permit children under ten years of age to handle matches.
20. Never light a match in a closet or attic where clothes are kept — the head of the match may fly off and set the clothing on fire.
21. Never use any kind of a match except a safety match.
22. Never permit gasoline, benzine or naphtha to be kept in the house.
23. Never permit gasoline, benzine or naphtha to be kept in anything but an airtight metal can, painted red.
24. Never allow anyone to wash clothes or other articles in gasoline, benzine or naphtha in the house.
25. Never throw gasoline, benzine or naphtha into a sink, cess-pool or sewer.
26. Never start a fire with kerosene oil, benzine or naphtha.
27. Never fill a lamp or gasoline stove when it is lighted.
28. Never throw water on flames which start from kerosene oil, as it tends to spread the blaze. Smother the flames with a rug, quilt or heavy clothing.
29. Never clean beds with highly inflammable liquids.
30. Never polish a stove while there is any fire in it.
31. Never leave a lamp burning when you leave the house.
32. Never leave a lamp with the light turned down low — it is liable to cause an explosion.
33. Never celebrate the Fourth of July by shooting toy pistols, firecrackers, Roman candles, skyrockets and other dangerous explosives.

ALWAYS

1. Always study to prevent fires in your house or place of business.
2. Always give attention to fire prevention — “an ounce of prevention is worth a pound of cure.”

3. Always remember that to have fire prevention in your home is better than to mourn over the remains of your beloved ones or the sympathy of your neighbors over your loss.

4. Always remember that a house of merriment is better than a house of mourning.

5. Always be prepared to put fires out before they become dangerous.

6. Always be prepared in case of fire to save every person in your building — plan before the fire occurs.

7. Always know where the nearest fire alarm box is situated, and keep the call number of your fire department in plain sight near the telephone.

8. Always call the fire department as soon as the fire is discovered.

9. Always see that fire drills are held at least once a week in every institution, school or factory.

10. Always keep your supply of matches in metal boxes throughout the house.

11. Always remember that the flames of the match, improperly, carelessly, thoughtlessly or wantonly applied, result in the destruction of property and in death.

12. Always extinguish a lighted match before you throw it away.

13. Always insist on having an outside shut-off attached to your gas supply pipe so that the gas may be turned off from the street.

14. Always avoid rubber hose connections for your gas stoves.

15. Always see that all kerosene oil is kept in a closed metal can in a safe place.

16. Always see that all lamps are filled by daylight, burners kept clean and wicks changed often.

17. Always have your chimneys, stove pipes and stoves examined and cleaned once a year to avoid any danger of fire.

18. Always see that your stove or range is in good condition and that no spark or live coal can fall on the floor.

19. Always see that all ashes are placed in a metal, tightly-closed receptacle.

20. Always keep your buildings clean and free from rubbish, etc.

21. Always have a full pail of water on each floor in the house to put out a starting fire.

22. Always insist on fire-resisting material to cover the roofs of your buildings — a shingle roof is the best kind of a fire catcher.

23. Always keep fire escapes in good condition, well painted and clear of all obstructions.

24. Always have your steam boilers examined twice a year.

25. Always have a stationary iron ladder leading to the roof of your building permanently in place instead of a movable wooden ladder.

CONCLUSION.

Always remember that all fires are the same size at the start.

INSTRUCTIONS FOR FIRE DRILLS IN SCHOOLS.

THOMAS J. AHEARN, *State Fire Marshal, Albany, N. Y.*

SCHOOL FIRE DRILLS.

Fire drills are aimed, not so much at the fire as at the panic usually accompanying it.

Prevent the panic.

See that the fire-alarm system works.

See that the exit facilities are sufficient and unobstructed.

Look to the orderly formation of the lines.

Secure orderly exit of the pupils.

March them two by two. Let them hold hands or link arms. Let there be music or singing to divert their minds.

Teachers should follow to be sure that no child has been left behind. Sometimes the teacher or an older child might lead, but if the teacher gets too far from the end of the line he or she might not be able to get back to take care of stragglers.

Older children may be detailed as monitors to look after stragglers or absentees.

Older and stronger children should lead to prevent overcrowding.

Boys should lead and girls follow, or separate exits should be taken. Boys often trample girls in a rush and girls are always sure to be frightened at boys coming down behind them.

Success depends on prompt discovery of fire and sounding of signals.

Alarm boxes should be at accessible distances, transmitting alarms throughout the entire building and showing the floor on which there is fire.

Children should be taught in the course of drills to overcome obstructions, to be prepared to meet them at the time of actual fire.

Post notices and distribute handbills or cards that a fire drill is to be introduced. Later distribute a second notice, giving details about the drill. Give copies of these notices to all that they may take them home and learn them or have them fully explained. Distribute the final notice, giving the rules and explicit directions to be followed.

Schools should have individual signal boxes connecting directly with the local fire department.

Fire drills should be to the fire escapes as well as to the exits.

Fire drills should conclude with the continued march of the children out of and away from the school in different directions.

Fire drills should aim at a quick dismissal, without going for coats or hats.

Fire drills should be had frequently but at irregular and secret times. Repetition will familiarize children with their duties and, if fire does break out, they will not be taken unawares.

Have printed copies of these rules posted conspicuously in schools.

Occasionally have a fire-fighting instruction program. There should be short talks on fire prevention, evils of carelessness, need of cleanliness in homes and surroundings, and damage by fire to life and property. These lessons should be free from excitement and addressed to the common sense of the pupils, rather than to their feelings and imagination. Their feelings should not be roused by stories of the horrors of fires or reference to any particular disaster. They should be interested in simple means of fire fighting and handling materials which come under their daily observation at home or at school; that most fires are of the same size at the start, the flame of a match carelessly handled or thrown away; a candle, a lamp, an oil or gasoline stove, spark from a locomotive, a burning cigarette or cigar carelessly thrown away, and that any one of these may cause great loss of life and property.

Keep call number of fire department in clear sight near telephone and call fire department instantly.

Reports should be made, from time to time, of the fire drills and their execution.

SUGGESTIONS FOR THE ORGANIZATION AND EXECUTION OF EXIT DRILLS FOR FACTORIES.

THOMAS J. AHEARN, *State Fire Marshal, Albany, N. Y.*

PREFATORY NOTE.

The primary object of the exit drill is to determine if the building is properly designed so that in the emergency of a fire its occupants would be able to effect their escape readily without the probability of injury from stairway, fire escape, or other congestion which inevitably causes panic. This test should be occasionally repeated to insure the continuous maintenance of safe conditions.

GENERAL SUGGESTIONS.

Organization and Duties.—All factory exit drills should be subject to the direction of a supervisory organization constituted as follows: Chief engineer of exit drill, floor chiefs, room captains, stairway and fire escape guards, searchers and inspectors.

Chief Engineer of Exit Drill.—Should be some one whose position would command respect and insure compliance with all orders and instructions relating to the drills.

General Duties of Chief Engineer of Exit Drill.—He will have charge of all matters pertaining to exit drills, practice maneuvers and organization, and will designate all persons to fill the positions above mentioned. He will fix the time for making drills and rigidly enforce measures of discipline for failure on the part of any employee to fully observe all the rules and requirements; by personal inspection he should see that over-crowding in work rooms, or elsewhere, is prevented, and that sufficient space is given to aisles and passageways to permit quick access to all of the exits.

Floor Chiefs.—Care should be exercised in the selection of these men or women, as upon them largely depends the efficiency and success of the drills. Where department foremen (or women) or factory superintendents possess the requisite qualifications their selection is to be preferred. It is important, however, that they have the trust and confidence of their employees generally, with a

fair degree of self-possession and capability of speaking the language of the operatives.

Duties of Floor Chiefs.— The floor chief shall have immediate charge of all employees or operatives employed on his floor in all matters pertaining to exit drills. He shall be held responsible for the enforcement of all rules and will report to the Chief Engineer any employees who wilfully neglect their proper observance.

He shall see that each movement corresponding to the alarm signal is promptly and properly executed and shall personally supervise the sounding of the general building alarm on his floor. He shall be further responsible for the condition of all aisles and passageways, and will see that chairs, benches and stock are promptly removed to insure unobstructed passageways.

When, by prearrangement in drill practice or as a result of actual fire, it may be necessary to depart from the regular instructions as regards selection and the use of exits, such change will be at the sole direction of the floor chief.

Room Captains.— Whenever floors are subdivided into two or more rooms the floor chief will be assisted by the room captains. For floors of large area, the floor captains should designate a supervisor for every fifty employees, to assist in maintaining the necessary control and discipline. For these latter positions it may be frequently found desirable to make selections from the forewomen.

Room captains should be chosen from those highest in authority, preferably a foreman or work boss. The same general care in their selection should be exercised as indicated for the floor chiefs.

Duties of Room Captains.— They should perform the same general duties in their respective rooms as are prescribed for the floor chief, subject to the latter's direction and supervision, excepting that they shall have no authority to change the assignment of exits, nor sound the general building alarm unless under the direction of the floor chief.

Stairway Guards.— For these positions men are to be preferred; they should be strong and alert, capable of acting quickly in emergencies. Two men selected from each floor should be assigned to each exit, stairway or fire escape.

Duties of Guards.— Guards are to be subject to the orders of the floor chief or room captains, and shall see that the march from the rooms and in descending the stairway or fire escape is orderly and without crowding and at uniform speed, with careful observance of spacing between files. They shall be especially watchful of persons stumbling or falling to prevent trampling, and no conditions should be allowed which require a halt after the exit march has started.

Guards should be stationed as follows: One guard on the room side of the door leading from the room to the stairways or fire escapes who shall see that the door is opened promptly after the first signal and is kept open until all the occupants have left the room and then that it be closed, and one guard on landing midway on staircase descending to the next floor below. Where stair exits have sharp bends or are poorly lighted, additional guards should be provided as required. All the foregoing officers should have a first and second assistant to help in the general work and to take charge, by seniority, in the case of the absence of the officer.

Searchers.— There should be at least one man and one woman searcher on each floor with alternates. They should be cool-headed and strong.

Duties of Searchers.— Searchers should immediately after the signal visit the toilet rooms and any room in which there may be occupants who cannot hear the signal. They must look out for any people who may become hysterical and faint.

Inspectors.— An inspector selected from among the employees should be appointed to examine each morning the condition of all stairways, fire escapes and roof exits, if any, and to report immediately to the chief of exit drill any obstruction found thereon or any unusual condition. He should also see that all doors leading to stairways or fire escape exits open outwardly in such a way as not to obstruct the passageway, and will immediately report any found locked or obstructed to the floor chief or chief engineer.

During the winter season attention should be given to any existing fire escapes where exposed to accumulations of ice or snow, and whenever so found, immediate steps should be taken for its prompt removal.

In addition to the above, provision should be made for a daily inspection and test each morning of the alarm system and of all signaling devices; report thereof to be made to the chief engineer.

Drill Exercise.—Exit drills should be held as often as necessary, depending upon the design of the building, the character of the industry, intelligence of employees, etc., and should include everyone in the building. The employees should always be dismissed at night by the regular test signal.

It is advisable that the alarms announcing the drills for each trial should originate on different floors in order to give different people an opportunity to learn how to act and have the signal sent when they discover a fire, and to afford practice in changing the order of precedence for possession of stairways or fire escapes, if the design of the building requires the latter to be used; excepting that the line of march may be so arranged as to take advantage of the additional time required in the descent of those from the upper floors, by dismissing such of the lower floors as would not delay the egress of the former.

A further exception to the rule should be made where buildings are divided by fire walls having protected openings, which would allow the transfer of all the occupants on a given floor in the fire section to an adjoining section on the same floor in the building, or by means of doors or a balcony to adjoining buildings or where provision is made for ascending to roof exits that may lead to a safe retreat, either on or in an adjoining building.

In assigning stations the first consideration is to man the aisles leading to each exit from the fire district and to prevent pushing and overcrowding. As far as possible, the aisle guards will endeavor to effect line formation, in order that the approach to the exit may be as orderly as possible. At all times special consideration should be given to women and children.

Employees who are not members of the section in which they may find themselves at the time of the test, upon the first signal, should be at attention and assemble for the line formation. Where the public is present and fire conditions permit, the line should be led off to other exits than those to which the public may be crowding.

Drill practice for tests should closely approximate military pre-

cision. It should be orderly and without confusion, and the movements should be simple and as few in number as possible. All movements should lead in the direction of the exits and follow in response to gong strokes.

The first alarm will consist of a series of strokes on a single tap gong (twice repeated), indicating the floor from which the alarm is given. Upon the first stroke of this alarm all employees will immediately cease work, rise, and as far as possible, shut off power to machines.

Upon the first stroke of the drill gong each operative will remove the stock, chairs or benches nearest him in the aisles, placing same either under or on top of the work table or machine. Before the sounding of the second stroke all aisles and passageways should be cleared of obstructions and the operatives should stand ready for line formation, which should be announced by the second stroke.

The next movement should be to march to the door of exit passage in single or double file. If in double file, couples should link arms for mutual support, the women using a free hand to raise their skirts to prevent tripping themselves or those in their immediate rear, especially on the stairs or fire escapes, and each file will move forward observing a uniform distance between couples to prevent touching. The line should start on motion signal of either the floor chief or room captains, and continue on to the stairway and descend, being subject only to the signals of the stairway guards.

No employee or other persons should be permitted to attempt to secure clothing or street apparel from locker or cloak-room.

Drill exercises should aim to bring into practice as often as possible all of the signals as mentioned, to insure against possible misunderstanding at a critical time.

Upon reaching the street the line should be led away to a safe distance to prevent crowding and confusion around the exit, and for this purpose one of the room chiefs or test supervisors from the first or nearest street floor should be assigned to the duty of leading the line away from the building.

Elevator attendants should be instructed to take cars immediately upon the first sound of the building alarm to the floor indi-

cated and hold themselves subject to the orders of the floor chief. In high buildings of the fire resistive type, the operator should be instructed to take his elevator into the fire zone and receive passengers and then if conditions favor such a procedure, discharge them only a few floors below the fire zone. Employees should be instructed to leave at that point and go down the stairways. If this procedure can be carried out much valuable time and many lives may be saved. The usual difficulty, however, is that all stairways and halls are crowded so that the elevators must run to the ground.

Assignment of Exits.—The assignment of exits will depend primarily upon their number, capacity and location and to some extent on their arrangement. An exit discharging horizontally into another building or into another section of the same building, which is cut off by a fire wall having standard protected openings, will accommodate as many persons as a separate and exclusive stairway of the same width for each story, and with the possibilities of danger greatly reduced.

Where conditions permit, it would be desirable in drills to use the regular entrances for exit purposes on account of their familiarity to the employees constantly using them. In their selection, however, consideration should be given to possible exposure by local hazards, such as proximity to heating and power plants and any hazardous processes or locations connected with the premises. It is also important in arranging the regular exit to allow one or more, if possible as entrances for firemen. The assignment of exits for different floors should first be based on approximate estimates of their relative discharging capacities, when as a result of actual tests based on these estimates, the distribution to each exit can be revised so that the time consumed will average about the same for all. In these trials every available exit, including those reached by way of the roof, should be considered.

Frequently the arrangement of exits may be such as to permit a safer and more rapid dismissal from an upper floor by using the regular exits to one of the lower floors in order to reach an exit discharging on another side of the building. Combinations of this kind should be utilized wherever possible.

Signs to indicate locations of all stairways, fire escapes and other

exits should be displayed in the main aisles throughout building. For this purpose it is believed that the hollow iron sign with the letters cut in each side against a white background, are the most effective. These signs may be illuminated for use in any dark sections of the building.

Notification.— For the purpose of sounding a general building alarm, gongs or horns of suitable size to insure being heard above the noise of occupancy, such as moving machinery, etc., should be installed. These gongs or horns should simultaneously indicate by strokes the floor from which alarm is given, which should be twice repeated.

The alarm signal system, however, is one over which this Department has no jurisdiction; the Industrial Board connected with the Labor Bureau is empowered to make rules and regulations as to installing of alarm signals.

The use of the box stations should be restricted as far as possible, in order to confine their use to the floor chief or his assistants, as conditions may require.

Fire alarm signal systems should be used only for drill purposes or fire alarm signals, but should be tested out at a certain hour each day in order to see that the system is working properly and also to keep the employees accustomed to their use so as to prevent a nervous shock of a first unfamiliar gong tap which might unfit a person for immediate emergency action.

The power-plant engineer, upon the first signal of the building alarm, should be instructed to shut off power to machines and shafting throughout the building, excepting in cases where it would affect the operation of the fire pumps, elevators or the lighting system.

A time and place for discussing drills with floor captains, etc., should be frequently arranged so that errors and improvements in drill can be pointed out and discussed.

In Case of Fire.— It shall be duty of the specified floor officer to see that an alarm is sent in from one of the call boxes located on the floor where the fire occurred and instructions should be given to all operatives to send in an alarm whenever a fire is discovered. An alarm should be sent in without delay, notifying the city fire department and an observance of this rule is absolutely

essential. It is desirable to have this rule enforced not only for the purpose of notifying the factory fire brigade but in order that the City Department should receive prompt notice of a fire. Some responsible person in the office should be designated to immediately call up Fire Headquarters, the number of which is posted on the TELEPHONE CARD, and another person designated to promptly ring the auxiliary box in the office, if one is provided, or else proceed to the nearest fire alarm box, turn in an alarm, and remain for the purpose of directing the firemen to the building. Each one of these persons should have some one designated to perform these duties in case of their absence.

Organization of Fire Brigade.—A Fire Brigade consisting of a sufficient number of operatives should be organized. The chief engineer should see that they are thoroughly instructed in the use of fire hose, fire extinguishers, or other fire fighting apparatus entrusted to their charge, and that the fire fighting apparatus be kept in proper condition.

He should assign the particular fire fighting apparatus to be used by each member of the fire brigade, and a card should be posted adjacent to each apparatus with the full name of the member of the fire brigade to whose care it has been designated.

The fire alarm signal designates a particular floor, and it should be the duty of all the members of the factory fire brigade to hurriedly proceed, without unnecessarily interfering with the egress of the other operatives from the building, to the floor from which the alarm sounded; report to the floor chief in charge of the particular floor, and take orders from him in addition to the instructions of the chief engineer.

IN THE EVENT OF FIRE.

Immediately send in an alarm by operating nearest fire alarm box.

Telephone without delay fire headquarters and send in an alarm from auxiliary box or nearest city fire alarm box.

WHEN ALARM APPARATUS SOUNDS IN WORKROOM.

Operatives must

Stop work.

Shut off power.

Stop machines.

Shut off gas and other open flames.

Close doors and windows opening upon or under fire escapes.

Put chairs, stools and other obstructions on top or under benches to clear the passageway.

Form line promptly with front of column facing the usual egress aisle and wait word of command from floor chiet.

AT COMMAND TO MARCH.

March in a rapid orderly manner from building as instructed. not crowding upon those immediately in front of you.

Preserve the interval in the line between yourself and those in front of you.

Retain formation until dismissed or the line is returned to building.

Women and children always have the right of way.

DON'T.

Don't run.

Don't lag behind, breaking up columns.

Don't scream or make unnecessary noise.

Don't laugh or talk.

Don't cause confusion.

Don't remain in toilet or dressing rooms.

Don't return for your clothing.

Don't try to use elevators unless commanded to.

Don't attempt to leave place in line until you return to the building.

Don't attempt to leave building except in accordance with fire drill regulations.

Don't fail to assist in carrying out instructions.

For any further information address Thomas J. Ahearn, State Fire Marshal, Capitol Building, Albany, N. Y.

STATE OF NEW YORK,
DEPARTMENT STATE FIRE MARSHAL.

Specifications for Fire Escapes.

Balconies shall be not less than four feet wide.

Brackets.— Not less than $\frac{1}{2} \times 1\frac{3}{4}$ " edgwise, or $1\frac{3}{4} \times \frac{1}{4}$ " angle iron and spaced not more than three feet apart with braces not less than one inch square iron and must extend two-thirds the width of the balcony with one-inch bolt ends through wall with $5 \times 5\frac{1}{2}$ " washers and nut on inside of wall.

Top Rail.— $1\frac{1}{4} \times \frac{3}{8}$ " iron or $1\frac{1}{2} \times \frac{1}{4}$ " angle iron rail around balcony not less than three feet high.

Bottom Rail.— $1\frac{3}{4} \times \frac{1}{2}$ " iron or $1\frac{1}{2} \times \frac{1}{4}$ " angle iron. Rails must go through wall with washers on nut on inside.

Connecting or Filling-in Bars.— Top and bottom rails may be connected by three-quarter-inch square bars not more than three feet apart with $1 \times \frac{1}{4}$ " crossbars well riveted on top and bottom rail with crosses. Filling-in bars may be one-half round or square iron not more than six inches apart and well riveted to top and bottom rails.

Flooring.— $1\frac{1}{2} \times \frac{3}{8}$ " iron slats riveted to batten $1\frac{1}{2} \times \frac{3}{8}$ " each and spaced $1\frac{1}{4}$ " between slats or $1 \times \frac{1}{4}$ " slats placed edge-wise not over $1\frac{1}{4}$ " apart with three rows of thimbles strung on wrought-iron rods running through and well fastened at end. Flooring to be fastened to bottom rail with $1\frac{3}{8}$ " wrought-iron clips not less than four feet apart.

Stairs.— Stairs shall not be less than two feet wide and placed at an angle of not less than forty-five degrees nor more than sixty degrees. Stringers must be not less than $6 \times \frac{1}{4}$ " iron or two stringers $2 \times \frac{3}{8}$ " iron, one on front and one on back of treads and well riveted or bolted to treads. Treads to be not less than six inches wide. Riser nine inches high. Treads may be constructed the same as flooring with $1\frac{1}{2} \times \frac{1}{4}$ " angle-iron noses on front of tread and to be riveted to $1\frac{1}{4} \times \frac{3}{16}$ " angle iron on ends that fasten to stringers.

Stairway Openings.— Stairway openings on each balcony shall be of size sufficient to provide clear headway and in no case shall they be less than twenty-one inches wide and three feet six inches long.

Balance Drop Stairs.— Must not be less than two feet wide and must be balanced from a bracket above, cut through the wall with a bolt in same as bracket with bolt and washer and to have iron sheaves on front of bracket for wire cable to pass through which is attached to stairs on the end and balance weight on the other end.

Balcony on Top Floor.— The balcony on top shall be provided with a gooseneck ladder leading to and above the roof and securely fastened to the building.

The foregoing describes what will be exacted and deemed a suitable means of escape from building but is not planned as a hint to devising as efficient or perhaps better escape.

Plans for escape must be forwarded to this office for approval.

To all Assistants of the Department:

I call your special attention to the imperative need of the utmost caution in reporting and investigating incendiary fires.

Read carefully sections 354, 369, 372, 373 and 374 as they specify your duties, powers and compensation.

Keep personal notes of your work to help your memory if your testimony is required.

Investigate every fire or explosion and determine whether it was the result of carelessness or design.

Begin such investigation immediately.

If of suspicious origin or incendiary, notify the State Fire Marshal at once.

But a fire is not necessarily incendiary merely because its origin is unknown.

If you believe a formal investigation necessary as to a suspicious or incendiary fire, notify the State Fire Marshal immediately.

If you think a fire incendiary, give fully your reason and the facts on the back of the blank report — a blank report is absolutely useless.

Incendiary fire investigations should be quietly conducted giving nothing out prematurely so as not to defeat the ends of justice.

tice. Under section 369 you have power to conduct the investigation in private.

Collect and preserve any physical evidence of arson with notes of finding.

The importance of dating the report is evident. It will show when the fire originated, when reported, your diligence and the promptitude of the Department.

Fill out carefully the blanks and the forms sent to you. Write your reports legibly, concisely and yet full enough. Inadequate, general and inexact reports are of no service. Do not fail to sign them.

Have a photo taken of arson evidence and transmit it with your report, indorsing it properly.

Unless the report is properly made out you can not be paid

Time consumed in investigating fires must be accurately stated.

Payments will only be made for services actually rendered and expenses actually laid out.

Expense accounts must be made out conscientiously and in detail, giving the date, name and location of the fire and number of miles traveled.

I ask your help toward wiping out incendiarism and reducing the fire waste by your activity in these investigations, reliable reports and personal interest in the discharge of your duties.

THOMAS J. AHEARN,

State Fire Marshal.

DEPARTMENT OF STATE FIRE MARSHAL.

REPORT.

Inspection of Premises.

Owner
 Business
 Address
 City, Town or Village
 County
 Date of Inspection
 Inspected by

DEPARTMENT OF STATE FIRE MARSHAL.

Report of Building Inspection for Fire Appliances.

Premises situated at

City	}	County.....
..... Town		
Village		

Name of owner

Address of owner

Name of occupant

Inspected by Date.....

Purpose for which building is used.....

(If hotel or theatre, give name.)

Size of building — Area..... No. of stories..... Material.....

Number of occupants.....

Interior Stairways.

Number and location..... Construction..... Width.....

Exits.

Number..... Width..... Is location suitable?.....

If not, why?

Is there any ladder to the roof?.... Portable or stationary?....

Do exit doors open outwardly?.....

Are the exits ample and suitable as means of escape?.....

If not, why?

What parts of the building are without suitable means of egress in case of fire?

.....

Elevators and Shafts.

Any elevators? How many?

Are platforms enclosed?..... If so, how and by what material?

Are the shafts enclosed?..... If so, how and by what material?

Are the shaft doors fireproof?..... Are the windows and doors in shaft fitted with wire glass?.....

Boilers.

Any steam boilers in building?.....
 If so, how many..... Used for power or heating?.....
 Average steam pressure carried.....Lbs.
 Date of last inspection.....
 Name of company making inspection.....
 Has certificate been filed with this office?.....

Pumps.

Normal capacity Gallons per minute..... Power.....
 Kind..... Size.....

Heating.

How is building heated.....

Lighting.

*How is building lighted? Kerosene, gas, electricity.
 If lighted by electricity give source of supply and system of
 wiring.....
 Number of arc lamps.....
 Number of incandescent lamps.....
 *If lighted by gas, state whether city gas, acetylene gas or gasoline
 vapor.
 If acetylene gas, give location and full description of generating
 plant, including the make and capacity thereof.....

 If gasoline vapor, give location, make and capacity of storage tank,
 generating apparatus and description of piping.....

 How many gas jets?..... Are gas jets protected by glass
 or wire globes?.....
 If lighted by kerosene, describe system of storage and capacity

 How many lamps used?.....
 Any red globes indicating exits?.....

*Cross out all words not applicable to the case in hand.

Outside Escapes.

Number and location Width of balconies.....
 Width of outer starways.....
 Width of treads.....Space between treads.....
 Access
 Guarded by hand rails or netting..... Escapes suitable
 for employees or occupants.....
 If not, why?.....
 †Escapes are in good repair, insecure, defective, broken, rusty,
 unpainted, dilapidated, well painted.
 Are the fire escapes reached through doors or windows?.....
 If windows, how constructed and how high are sills from floor?...
 Are windows and doors adjoining fire-escapes fitted with wire
 glass?

Interior Protection.

Number of stand pipes.....
 Location Diameter..... Any outside
 siamese connections?
 Hose for standpipes, diameter.....
 *Heavy, medium, light, rubber, canvas.
 *Perfect. Little worn. Badly worn. Defective. Rotted.
 Does hose length protect the whole of each floor?.....
 Sprinkling system installed.....
 On what floors.....
 Liquid chemical extinguishers..... Number on each floor.....
 Name of manufacturer or brand.....
 Fire pails..... Number on each floor.....
 Fire axes..... Number on each floor.....
 Are employees or occupants instructed in the use of appa-
 ratus?.....
 How?

* Cross out all words not applicable to the case in hand.

† The entries under this heading should be "Free," "Obstructed," etc., and in case of hospitals and other institutions receiving bed patients note should be made if escapes permit handling of bedridden patients, surgical cases, etc., without injury. Note should also be made of the ventilators and skylights as affecting fire dangers.

Fire Drills.

Are they organized among employees or occupants?.....
 How often practised?
 Are both outside and interior stairways used in drills?.....

Fire Alarm Connections.

Is there a box in the building?..... How near is a
 street box?
 Is a telephone installed?.....How near is the
 local fire department?.....

Outside Facilities.

Number of hydrants..... Size of mains.....
 Is water pressure sufficient?.....
 Elevated water tanks..... How filled?.....
 Are the tanks higher than the roof?.....
 Capacity of tank.....
 Any fire hose.....

Rubbish.

Is any rubbish, waste paper, etc., stored in attic, cellar or else-
 where?

Oils, Explosives and Chemicals.

For what used?..... Where stored?.....

 Are the fire laws and ordinances complied with?.....

Recommendations.

.....

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY, N. Y.

This report, properly filled out, to be returned to the office of the State Fire Marshal sixty days after service of violation.

Report of reinspection of premises made for the purpose of ascertaining what action has been taken on the orders of the State Fire Marshal as contained in notice of violation served.....

Date of reinspection.....

Location of premises.....

City }
Town }
Village }

County

Orders have been complied with in the following manner:

.....
.....
.....

.....
Assistant State Fire Marshal.

(Local Title)

Describe fully in the order as shown on the original violation.

DEPARTMENT OF STATE FIRE MARSHAL.

CAPITOL, ALBANY.

SIR:— Complaint has been made to me that the premises....

.....
..... are, in their present condition,
a violation of section 356, chapter 434, Laws of 1913.

By reason of

You will therefore cause the same to be remedied in the following manner
within ten days from the date of service of this notice or be liable to a penalty of \$50 for each day of your neglect to comply with this order.

Your attention is called to section 356, chapter 434, Laws of 1913, endorsed hereon.

.....
State Fire Marshal.

To.....

STATE FIRE MARSHAL OF NEW YORK

NOTICE OF VIOLATION AND ORDER TO MAKE SECURE

To
No.

Section 356, Chapter 434, Laws of 1913.

§ 356. *Duties of the state fire marshal and assistants to inspect other property.*—The state fire marshal, his deputies or assistants, upon the complaint of any person or whenever he or they shall deem it necessary, shall inspect all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure, which, for want of repairs, lack of or insufficient fire escapes, automatic or other fire-alarm apparatus or extinguishing equipment, or by reason of age or dilapidated condition or for any other cause is especially liable to fire or to cause loss of life or damage to property, and whenever such officer shall find in any building or other premises any explosive materials or inflammable conditions dangerous to life or property, he or they shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner, lessee or occupant of such premises or buildings. If such order is made by any deputy or assistant to the state fire marshal such owner, lessee or occupant may, within five days, appeal to the state fire marshal, who shall within ten days, review such order and file his decision thereon, and unless by his authority the order is revoked or modified it shall remain in full force and be obeyed by such owner, lessee or occupant. Such owner, lessee or occupant may have the order or the final determination on appeal of an order issued by the state fire marshal reviewed by a writ of certiorari in a court of competent jurisdiction provided proceedings for such review are begun within ten days after such order has been served or appeal finally determined.

The service of any such order shall be made upon the owner, lessee or occupant of the premises to whom it is directed by either delivering a true copy of same to such owner, lessee or occupant personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises; whenever it may be necessary to serve such an order upon the owner, lessee or occupant of premises such order may be served either by delivering to and leaving with the said person a true copy of the said order, or, if such owner, lessee or occupant is absent from the jurisdiction of the officer making the order, by mailing such copy to the last known post-office address of said owner, lessee or occupant.

Any owner, lessee or occupant failing to comply with such order within ten days after said appeal shall have been determined, or, if no appeal is taken, then within ten days after the service of the said order, shall be liable to a penalty of fifty dollars for each day's neglect thereafter.

The penalty herein provided may be recovered in an action brought in any court of the county where such property is located, in the name of the people of the state under the direction of the state fire marshal or any of his assistants herein designated, by an attorney specially designated therefor by the attorney-general or by an attorney designated by the state fire marshal.

Whenever an order has been served requiring the demolition of a building or other structure, of the removal of explosive materials therefrom as here-

inbefore provided, and the owner, lessee or occupant thereof has failed to comply with such order or failed to apply to a court to review the order within the time herein specified, the state fire marshal may cause such building or other structure to be demolished or such explosive material to be removed and stored elsewhere or destroyed at the discretion of the state fire marshal and the expense incurred by the state fire marshal in such demolition or in the removal of explosive materials and also any penalty recovered, as provided for in this section, shall constitute a first lien upon the premises occupied by such building or structure or where such explosive material was stored.

Whenever an order has been served requiring the installation, alteration or repair of fire escapes or exits upon any building or structure in which number of persons work, live or congregate from time to time for any purpose, and the owner, lessee or occupant has failed to comply with said order or within the time herein specified, the state fire marshal may, in addition to any other penalty mentioned in this article, prosecute such owner or occupant in the criminal courts, and upon conviction such owner, lessee or occupant shall be liable to punishment as for a misdemeanor.

DEPARTMENT OF STATE FIRE MARSHAL.

STATE OF NEW YORK } ss.:
COUNTY OF

..... Assistant State Fire Marshal
City

Village..... County of..... N. Y.
Town

being duly sworn deposes and says that he is over the age of years, that on the day of, 191..... he served the violation notice pursuant to section 356, chapter 457 of the Laws of 1912, on owner, occupant therein named of the premises.....

(1) By delivering a true copy of the same to such owner, occupant.

(2) By delivering the same to and leaving it with..... in charge of said premises.

(3) That no owner or occupant or person in charge could be found upon the premises and I therefore affixed a copy thereof in a conspicuous place on the door to the entrance of the said premises described in the violation notice.

(4) That said owner of said premises was absent from the jurisdiction of the officer making the order and I mailed the same to owner in a postal envelope directed to him at that being his last known postoffice address.

That the time which said notice was so served was.....
o'clockM. on the day above mentioned.

Sworn to before me this

day of, 191..

NOTE.—Strike out either (1), (2), (3) or (4) not used.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY, N. Y.

Fees Allowed.

Reporting each fire.....	\$0.50
Investigating a suspicious fire under instructions from this department — per diem.....	2.00
Inspecting premises where violations are found — four inspections to constitute a day's work — per diem	2.00
Serving affidavits	0.50 each
Making a reinspection under instructions from this department	0.50 each
Actual mileage traveled.....	0.15 each
Necessary notary fees.	

STATE OF NEW YORK.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY.

.....
.....
.....

DEAR SIR.—Enclosed you will find two blank vouchers for the expenses that you have incurred for the three months ending, 191..., in connection with your duty as assistant to the State Fire Marshal.

In filling out the vouchers you are required to give the date of the fire and name of the owner of the premises and the purpose for which the expenses were incurred. One of the vouchers must be sworn to before a notary public. The duplicate voucher need not

be sworn to but both must be receipted with your signature upon the face and sent to this office properly filled out.

In figuring the expenses to which you are entitled, you must comply strictly to the requirements of section 374 of the State Fire Marshal's Law, which is as follows:

§ 374. *Compensation of Assistants.* Except in cities having over seventy-five thousand inhabitants all assistants of the state fire marshal not receiving a salary from the state of New York shall receive, upon the audit of the state fire marshal, fifty cents for each report of each separate fire or explosion reported to the state fire marshal and fifty cents for each order served under the provisions of this article, and in addition there shall be paid to such assistants of the state fire marshal, whose duty it shall have been to make and who have actually made an investigation or an inspection, the sum of fifteen cents for each mile traveled to the place of fire or explosion or to premises inspected, and, in the discretion of the state fire marshal, where an investigation has been held or an inspection has been made by his direction a sum not to exceed two dollars for each day's service spent in such investigation or inspection, fifty cents for each fire drill held under their supervision and also postage and other actual and necessary expenses incurred in the performance of their duty under this article.

By strictly adhering to these instructions you will avoid the trouble and inconvenience of having your voucher returned as defective to the office of the State Comptroller, which passes on all vouchers. It is very strict in these matters and will not allow any corrections to be made on a voucher once it has been filed.

Payment will be made to you by check from the office of the State Treasurer.

Yours truly,

THOMAS J. AHEARN,

State Fire Marshal.

BEFORE MAKING OUT YOUR ACCOUNT, PLEASE READ RULES ON
BACK OF THIS BLANK.

State of New York,

To Dr.

Date. \$..... \$.....

Approved at \$.....

Received payment,

Sign here.....

STATE OF NEW YORK, }
..... County, } ss.:

.....
residing at being sworn, says that
the several sums charged in the annexed account, amounting to
\$....., for services, disbursements, traveling and other ex-
penses are correct, and have been actually rendered and necessarily
incurred and paid by him in the performance of his official
duties as
that the duty or business, the distances traveled, the places of
starting and destination, and all the dates and items as mentioned
and charged therein are correct, and no part thereof has been paid.

.....
(Signature of Claimant)

Sworn to before me this

day of, 191..

.....
Notary Public.

TAKE NOTICE

To facilitate the examination of your account and insure its
prompt audit and payment, the following rules *must be strictly
observed*:

1. This account must be verified by affidavit and receipted in
advance of payment.

2. No charges of an indefinite character will be allowed, and all
items must give dates.

3. All charges for purchases must be accompanied by sub-vouchers.

4. Sub-vouchers must be furnished for hotel bills of more than one day, and for all livery charges.

5. Charges for transportation must show starting point and destination.

6. Pullman car charges must have the coupon showing amount paid attached to bill.

7. Put but one item on a line, and if necessary use two or more lines to make the charge distinct and plain.

8. If receipted by stamp, name or initial of person using same must be added.

9. Accounts should cover one month only from first to last day.

STATE OF NEW YORK.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY.

ALBANY, N. Y.,

.....

.....

SIR:

Enclosed find State Treasurer's check on the National Commercial Bank, Albany, N. Y., for \$.....

.....
in payment of your account.....

.....

.....

.....

Respectfully yours,

.....

State Fire Marshal.

STATE OF NEW YORK.
DEPARTMENT OF STATE FIRE MARSHAL.
ALBANY.

Magazine Report.

- (1)
(Name of applicant)
- a (2), whose business
(Partnership or corporation)
address in the State of New York is.....
desiring to engage in keeping and storing explosives at the place
hereinafter described, for the purpose of complying with the pro-
visions of Section 363 of Article 10-a, Chapter 453, Laws 1912,
hereby makes the following report to the State Fire Marshal:
1. Location of magazine
.....
 2. Kind of explosives to be stored.....
Maximum quantity intended to be stored.....pounds.
 3. Magazine is distant from nearest building.....feet
Magazine is distant from nearest highway.....feet.

Application is hereby made to the State Fire Marshal for an in-
spection of said magazine, and if on such inspection same is found
to be constructed in accordance with the specifications provided in
Section 361 of said Article, application is hereby made for a
determination of the maximum quantity of explosives that may
be kept or stored therein, and for a certificate of compliance as
provided by law.

Dated

STATE OF NEW YORK.
DEPARTMENT OF STATE FIRE MARSHAL.
ALBANY.

.....
.....
.....

SIR:

Your application for a certificate of compliance for your magazine located at.....

.....
has been approved. Fee \$.....

Please call for same or enclose money order or check payable to the order of the Department of the State Fire Marshal.

Bring this notice with you or enclose it with your remittance.

Yours truly,

.....
State Fire Marshal.

N. B.— No money received except at the office, Albany, N. Y.

STATE OF NEW YORK.
DEPARTMENT OF STATE FIRE MARSHAL.
ALBANY.

—
Certificate of Compliance.

(DUPLICATE)

Whereas
has applied to the State Fire Marshal for an inspection of a
..... class magazine located at
.....
.....
in which it is intended to keep and store explosives; and

Whereas, the State Fire Marshal has caused an inspection of said magazine to be made, and same has been found to be constructed in accordance with the specifications provided in Section

361 of Article 10-a, Chapter 453, Laws of 1912, and the maximum quantity of explosives that may be lawfully kept or stored in said magazine has been determined by the State Fire Marshal by reference to the quantity and distance table set forth in Section 359 of said Article, and the protection afforded by natural features of the ground or by efficient artificial barricade, to be pounds.

THIS CERTIFICATE WITNESSETH:

That said
has complied with all the provisions of said Act and that said
is authorized to keep and store not exceeding pounds
of explosives in said magazine. The annual license fee for said
magazine is \$. Receipt of the payment whereof for the
First Year is hereby acknowledged.

WITNESS the signature of the State Fire Marshal at the City of
Albany, State of New York, on this day of,
191.....

Certificate No.
State Fire Marshal.

This Duplicate certificate of compliance to be POSTED in magazine.

Certificate No. Part 2.

SECOND CLASS MAGAZINE.

THIS IS TO CERTIFY, That
of is authorized to maintain a
Magazine at
and to store therein Explosives not to exceed 50 pounds at any
time, as provided in Section 360, Chapter 453, Laws of 1912.
Expires 191..

State Fire Marshal.

This certificate to be kept in Magazine at All Times.

STATE OF NEW YORK.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY.

I desire to call attention to section 363 of chapter 453, laws of 1912, copy of which please find enclosed.

This Department has been informed that you are now engaged in handling explosives, and would request that you properly fill out and return to this office one of the enclosed forms for each magazine you are now operating or intend operating in the State of New York outside the limits of the City of New York, as required in the section above referred to.

This law went into effect April 16th last and it is, therefore, imperative that you give this matter prompt attention.

Yours truly,

THOMAS J. AHEARN,

State Fire Marshal.

This certificate to be framed and posted in magazine.

Certificate No.

CERTIFICATE OF COMPLIANCE

PART 2

FIRST-CLASS MAGAZINE

DEPARTMENT OF STATE FIRE MARSHAL

ALBANY,, 191..

THIS IS TO CERTIFY, That on the day of, 191.., the first-class magazine situate

.....
was Inspected and found to conform with specification and regulations of Department of State Fire Marshal as provided for in Sec. 361, Chap. 453, Laws of 1912, and permission is hereby granted
to keep or store thereat Explosives not to exceed in quantity pounds.

State Fire Marshal.

This Certificate of Compliance shall be valid for One Year from date of issue unless cancelled for cause as provided in Section 363, Chapter 453, Laws of 1912.

STATE OF NEW YORK.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY.

December 29, 1913.

DEAR SIR:

The State Fire Marshal Law requires this department to keep a daily record of all fires occurring within the State and to make a report on same to the Legislature on or before February 15th of each year. In order to comply with the law it will be necessary for this department to have data required on all fires from January 1st to December 31st, inclusive.

You are therefore instructed to make a report on each fire *not previously reported* and which has occurred within your jurisdiction up to this date and mail the card so that it will reach this office not later than January 10, 1914.

Enclosed you will find expense account blanks for the quarter ending December 31st. Kindly send in your account at your earliest convenience so that it may be audited promptly.

I expect and earnestly solicit your co-operation in this matter.

Yours truly,

THOMAS J. AHEARN,

State Fire Marshal.

DEPARTMENT STATE FIRE MARSHAL,

ALBANY, N. Y.

BUREAU OF STEAM BOILER INSPECTION.

ALBANY,, 191..

SIR:

The Steam Boilers situate at

and recorded as Boilers No., will be tested, as required by Section 357, Chapter 453, Laws of 1912, on the day of at o'clock, ...M.. or as near that hour as possible.

You will see that the following requirement of the Department of State Fire Marshal is complied with —

Your Engineer must be present at the test and be ready to test at the above named time.

Boiler must be clean at time of test.

.....

Chief Engineer.

Section 357, Chapter 453, Laws of 1912.

DEPARTMENT STATE FIRE MARSHAL,
ALBANY, N. Y.

BUREAU OF STEAM BOILER INSPECTION.

ALBANY,, 191..

.....

.....

.....

SIR:

The Certification of Inspection of
Steam Boiler No. expires

You will please notify this office of the location of said boiler, as required by regulations of this Department when a date and hour will be fixed for a reinspection, and notice of same forwarded to you.

.....,

Chief Engineer.

DEPARTMENT STATE FIRE MARSHAL,
ALBANY, N. Y.

BUREAU OF STEAM BOILER INSPECTION.

ALBANY,, 191..

SIR:

On the Inspection and Test of the STEAM BOILER known as
Boiler No. and Appliances thereof, situate at.....

.....
it is found to be in an INSECURE AND DANGEROUS CONDITION.

The following changes and alterations are required to render it safe for use, to wit.:

.....

You will DISCONTINUE THE USE of said Steam Boiler until such changes and alterations are completed to the satisfaction of the Department of State Fire Marshal as provided by Section 357, Chapter 453, Laws of 1912.

.....,

Chief Engineer.

To

STATE OF NEW YORK,

DEPARTMENT OF STATE FIRE MARSHAL,
 ALBANY.

To.....

DEAR SIR:

Please supply the following information as soon as possible:

The present location of any steam boiler or boilers which you own, lease or operate.

The name of the Company which insures them, if you have them insured.

Whether they are at present in use or not, if not, state when you will begin to use them.

Yours respectfully,

.....,

Inspector of Steam Boilers.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL,
ALBANY.

SECOND NOTICE.

.....1913.

.....
.....
.....

DEAR SIR:

This department has issued bills on
to you for the inspecting of boilers operated by you and same has
not been paid as yet.

Number of boilers Amount due, \$.....

Kindly give this matter your immediate attention and mail
check for same and oblige,

Yours truly,

JOHN F. HOEY,
Chief Inspector.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL,
ALBANY.

.....
.....
.....

SIR:

The certificate of inspection for your boilers located at.....
.....
is now ready. Fee, \$.....

Please call for same or enclose money order or check payable
to the order of the Department of State Fire Marshal.

Bring this notice with you or enclose it with your remittance.

Yours truly,

.....,
Chief Engineer.

Section 357, Chapter 453, Laws of 1912.

*** A fee of five dollars shall be charged the owner or lessee of each boiler inspected by the inspector of the office of the State Fire Marshal, but not more than the sum of ten dollars shall be collected for the inspection of any one boiler for any year.
* * *

N. B.— No money received except at the office, Albany, N. Y.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL,
ALBANY.
BUREAU OF STEAM BOILER INSPECTION.

SIR:

Your attention is called to the following regulation of this Department, which you are required to comply with:

Every owner, agent or other person having charge of and operating any steam boiler, within the State of New York, generating 10 pounds or more per square inch steam pressure, which is required to be inspected by the Department of State Fire Marshal or for which a certificate of inspection has been issued by a duly authorized insurance company, shall have *firmly placed* and permanently secured upon such boiler, a metal number or numbers corresponding with the number of said boiler as it is recorded upon the books of the Department of State Fire Marshal.

The number of your boiler plant situate.....
as recorded upon the books of this Department is.....,
and the several boilers in the plant are numbered from left to right
as

These numbers are required to be not less than two inches in length and conspicuously placed upon the boiler.

.....,
Chief Engineer.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL,
ALBANY.

....., 191...

.....

.....

.....

GENTLEMEN:

This is to inform you that this department has received information that you are operating boilers that have not been inspected or insured, or if insured certificates are not filed with this department according to law.

Kindly let us know whether same is correct or not within five days from date or I will be compelled to send an inspector from this department to inspect same and you will be charged accordingly. I am enclosing a copy of section 357, chapter 453, laws of 1912, relative to Boiler inspections.

Awaiting an early reply, I am,

Yours very truly,

JOHN F. HOEY,

Chief Inspector.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL,
ALBANY.

Date

Mr.

....., N. Y.:

A report on file in this department shows that boiler No. operated by you at was upon an inspection made by the on, 191... in a defective condition by reason of

.....

.....

.....

You are therefore directed to cause this defective condition to be remedied forthwith and file with this department a certificate of inspection by a duly authorized insurance company showing that this order has been complied with.

Should such certificate not be filed within thirty days from the date hereof, this department will cause an inspection to be made as provided in the last clause of Section 355 of the State Fire Marshal's Law, copy of which is printed on the back hereof.

Yours truly,

.....,
State Fire Marshal.

STATE OF NEW YORK.

DEPARTMENT OF STATE FIRE MARSHAL.

ORDER IN RELATION TO DEFECTIVE BOILERS.

To
....., N. Y.

Dated, Albany, N. Y.,....., 191...

Section 355 of Chapter 451, Laws of 1911.

"The state fire marshal shall also cause to be inspected all boilers in buildings and all other places where same are used for the generation of steam, except where a certificate has been filed certifying that such boilers have been inspected by a duly authorized insurance company. A fee of five dollars shall be charged the owner or lessee of each boiler inspected by the inspector of the office of the state fire marshal."

THE STATE FIRE MARSHAL,

FIRE REPORT,

Location..... No.... City, Town or Village..... County.....
Date..... Time..... Signal.....
Class of structure..... Extended damages.....
Stories Material
No. of families to Floor. If Tenement or Flat.....
Name of Owner.....

Address
 Estimated Damage to Structure \$. . . . Insurance Carried \$. . . .
 Estimated Damage to Structure \$. . . . Insurance Carried \$. . . .
 Where Fire Originated.
 Occupied by
 As
 Cause of Fire.

Date	Arrived	Left
.....
.....
.....

(See other side for report.)

(BACK)

Suspicious Testimony taken.
 Report

Signature

Address

Assistant Fire Marshal.

STATE OF NEW YORK,

DEPARTMENT OF STATE FIRE MARSHAL,
 ALBANY.

Mr.

.

DEAR SIR:

There was a fire reported by you on.
 of

Kindly let me know the amount of insurance paid by the Insurance Company to the party having the loss as soon as possible.

Thanking you in advance for same, I remain,

Yours very truly,

.

Chief Inspector.

SUBPOENA.

(Sec. 369, Chapter 453, of the Laws of 1912.)

In the Name of the People of the State of New York:

To GREETING:

WE COMMAND YOU, That all business and excuses being laid aside, you and each of you appear and attend before.....

..... Fire Marshal of the State of New York, on the day of....., 191., at.....

at..... o'clock in thenoon, to testify and give evidence in relation to what you know about.....

..... then and there to be investigated by the said Fire Marshal, and for failure to attend and be examined as a witness you will be punished as for contempt of court.

WITNESS, Thomas J. Ahearn, Fire Marshal of the State of New York. this..... day of..... one thousand nine hundred.....

.....
*State Fire Marshal.*STATE OF NEW YORK, }
COUNTY OF } ss.:

....., being duly sworn says that he over the age of years; that on the day of , 191., he served the within subpoena on, the person therein named by delivering to and leaving with him a true copy of the same, and at the same time paid him the sum of..... mileage on same and \$0.50 for his services, and that he knew the person so served to be the person described in the within subpoena.

Sworn to before me this..... day of, 191..

SUBPOENA.

The following is a copy of Sec. 372, Chap. 453, Laws of 1912:

WITNESSES. Any witness who refuses to obey a summons of the state fire marshal, his deputies or assistants, or who refuses to be sworn or to testify,

or who disobeys any lawful order of the state fire marshal, his deputies or his assistants in relation to an investigation instituted by him or them, or fails or refuses to produce any books, paper or document touching on any matter under investigation or examination, or who is guilty of any contemptuous act after being summoned to appear before him, or either of them, to give testimony in relation to any matter or subject under examination or investigation as aforesaid, may be punished as for contempt of court. Each person summoned to appear and testify before the state fire marshal or any of his deputies and assistants shall receive from the state treasurer upon the audit of the state fire marshal, for mileage and fees, such sum or sums as provided for witnesses in section thirty-three hundred and eighteen of the code of civil procedure.

STATE OF NEW YORK,

DEPARTMENT OF STATE FIRE MARSHAL, ALBANY.

SIR:

This Department is advised that you are violating the State law forbidding smoking in factories.

Chapter 194, Laws of 1913, provides that "No person shall smoke in any factory. A notice of such prohibition shall be posted in every entrance hall and every elevator car, and in every stair hall and room on every floor of such factory in English and also in such other language or languages as the State Fire Marshal shall direct. The State Fire Marshal shall enforce the provisions of this subdivision." Such cards are furnished by this Department.

A violation of this statute is punishable, for the first offence, by a fine of not less than twenty dollars nor more than fifty dollars; for a second offence, not less than fifty dollars nor more than two hundred and fifty dollars, or imprisonment for not more than thirty days or both; for a third, not less than two hundred and fifty dollars or imprisonment for not more than sixty days or both.

Your premises will soon be again examined. If you continue to violate the law the matter will be placed in the hands of the Attorney-General for action.

Yours truly,

THOMAS J. AHEARN,
State Fire Marshal.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL,
ALBANY.

SIR:

This Department is advised that you are not complying with the State law relative to Factory Fire Drills.

Under Chapter 203, Laws of 1913, in every factory building over two stories in height, in which more than twenty-five persons are employed above the ground floor, a fire drill which will conduct all the occupants of such building to a place of safety and in which all the occupants of said building shall participate simultaneously, shall be conducted at least once a month.

A violation of this statute is punishable, for the first offence, by a fine of not less than twenty dollars nor more than fifty dollars; for a second offence, not less than fifty dollars nor more than two hundred and fifty dollars, or imprisonment for not more than thirty days or both; for a third, not less than two hundred and fifty dollars or imprisonment for not more than sixty days, or both. Refusal to take part in the drills is punishable as disorderly conduct.

Your premises will soon be again examined. If you continue to violate the law the matter will be placed in the hands of the Attorney-General for action.

Yours truly,

THOMAS J. AHEARN,
State Fire Marshal.

STATE OF NEW YORK,
DEPARTMENT OF STATE FIRE MARSHAL.

NOTICE.

To Fire and Police Departments and the Law Officers:

DEAR SIR.—Your attention is hereby called to the provisions of chapter 303 of the Laws of 1913, amending section 379 of the State Fire Marshal Law.

They are as follows: "The State Fire Marshal is hereby authorized and empowered to formulate and adopt suitable regulations upon each of the subjects in his jurisdiction and from time to time make amendments thereto. He shall cause a copy of such regulations to be filed with the clerk of each county, town or village, and it shall be the duty of members of the fire and police departments, and of the legally constituted law officers of each city, town or village, to assist the State Fire Marshal in the enforcement of this article and the regulations made thereunder."

Respectfully yours,

THOMAS J. AHEARN.

State Fire Marshal.

STATE OF NEW YORK,

DEPARTMENT OF STATE FIRE MARSHAL.

To Municipal Fire Marshals, Fire Chiefs, Inspectors and all other Assistants of the Department:

GENTLEMEN.—Your attention is hereby called to the following new and important provisions of laws affecting the Department:

Chapter 332, Laws of 1912, requires automatic sprinklers in factories over seven stories or 90 feet in height, where more than 200 people are regularly employed.

Chapter 194, Laws of 1913, prohibits smoking in factories. No person shall smoke in any factory. A notice of such prohibition stating the penalty for violation thereof shall be posted in every entrance hall and every elevator car and in every stairhall and room on every floor of such factory in English and also in such other language or languages as the fire commissioner of the City of New York in such city, and elsewhere, the State Fire Marshal, shall direct. The fire commissioner of the City of New York in such city, and elsewhere, the State Fire Marshal, shall enforce the provisions of this subdivision. These cards can be obtained from this Department on request.

Chapter 203, Laws of 1913, in effect October 1, 1913, requires factory buildings over two stories in height, where 25 persons are employed above the ground floor, to have suitable fire alarm systems, and conduct fire drills at least once a month under the supervision of the State Fire Marshal.

Regulations as to such fire drills in factories can be obtained in booklet form from the State Fire Marshal.

Chapter 204, Laws of 1913, amends section 351 of the State Fire Marshal Law and now gives the State Fire Marshal jurisdiction over "the adequacy and sufficiency of water supply and fire apparatus and their inspection for fire fighting purposes."

Chapter 303, Laws of 1913, amending section 379 of the State Fire Marshal Law, gives him the power to adopt regulations on the subjects under his jurisdiction, file a copy with county, town and village clerks, and thereupon the fire and police departments and law officers of these localities must assist the State Fire Marshal in their enforcement.

Chapter 308, Laws of 1913, makes new and stringent provisions as to moving picture apparatus and booths which must hereafter be enforced.

Chapter 393, Laws of 1913, amends section 364 of the State Fire Marshal Law, and places the transportation of explosives in quantities exceeding five pounds, for any purpose, within the requirements of the present law.

Chapter 405, Laws of 1913, amends section 369 of the State Fire Marshal Law, and makes it the duty of all assistants to the State Fire Marshal, in the absence of local ordinances, to inspect not less than twice a year, in outlying districts, and four times a year in closely built portions, all buildings, premises and public thoroughfares, to ascertain, correct and report upon any conditions liable to cause fire.

Chapter 431, Laws of 1913, amends section 378 of the State Fire Marshal Law, and requires municipal fire marshals, fire chiefs and all other assistants to report yearly, between the first day of May and June, in detail the extent and condition of their respective fire departments, apparatus or stations, water supply and service, and also any recommendation or suggestion which, in their opinion, would tend to increase the usefulness of their departments or decrease the fire hazard in their respective localities.

Chapter 432, Laws of 1913, amends section 353 of the State Fire Marshal Law, and adds as additional assistants to the Depart-

ment, the chiefs of fire districts under the County Law, the president or like senior officer of each incorporated village in which no fire department exists, and the chief of the fire department or like senior officer in an unincorporated village in which a fire department exists.

Chapter 520, Laws of 1913, amends section 369 of the State Fire Marshal Law, and takes away from parties suspected in arson cases the privilege of immunity if examined as witnesses under oath, but they should, notwithstanding, as a matter of precaution be informed of their rights before being sworn and that their answers might be used against them.

Chapter 523, Laws of 1913, amends section 357 of the State Fire Marshal Law, and requires owners and lessees of boilers within cities and incorporated villages to notify chiefs of fire departments or other assistants, of the location of their boilers. Such chiefs and assistants and also town clerks must keep a record thereof and forward a copy to the Department in January and July of each year.

These laws are also sent to you in full but your special attention is called to them in this manner. The State Fire Marshal must largely depend upon his assistants and inspectors. Their work forms the foundation of the operations of the Department. He acknowledges your valuable help in the past and now appeals to you most earnestly to do all in your power to aid him. Chapter 204, Laws of 1913, with reference to water supply and fire apparatus, and chapter 405, Laws of 1913, with reference to inspection of buildings, premises and public thoroughfares, will prove especially beneficial in the reduction of the fire waste.

THOMAS J. AHEARN,
State Fire Marshal.

STATE OF NEW YORK.

DEPARTMENT OF STATE FIRE MARSHAL.

ALBANY.

To all Assistants of the Department:

GENTLEMEN.—I call your special attention to the imperative need of the utmost caution in reporting and investigating incendiary fires.

Read carefully sections 354, 369, 372, 373 and 374 as they specify your duties, powers and compensation.

Keep personal notes of your work to help your memory if your testimony is required.

Investigate every fire or explosion and determine whether it was the result of carelessness or design.

Begin such investigation immediately.

If of suspicious origin or incendiary, notify the State Fire Marshal at once.

But a fire is not necessarily incendiary merely because its origin is unknown.

If you believe a formal investigation necessary as to a suspicious or incendiary fire, notify the State Fire Marshal immediately.

If you think a fire incendiary, give fully your reason and the facts on the back of the blank report—a blank report is absolutely useless.

Incendiary fire investigations should be quietly conducted, giving nothing out prematurely so as not to defeat the ends of justice. Under section 369 you have power to conduct the investigation in private.

Collect and preserve any physical evidence of arson with notes of finding.

The importance of dating the report is evident. It will show when the fire originated, when reported, your diligence and the promptitude of the Department.

Fill out carefully the blanks and the forms sent to you. Write your reports legibly, concisely and yet full enough. Inadequate, general and inexact reports are of no service. Do not fail to sign them.

Have a photo taken of arson evidence and transmit it with your report, endorsing it properly.

Unless the report is properly made out you can not be paid.

Time consumed in investigating fires must be accurately stated.

Payments will only be made for services actually rendered and expenses actually laid out.

Expense accounts must be made out conscientiously and in detail, giving the date, name and location of the fire and number of miles traveled.

I ask your help toward wiping out incendiarism and reducing the fire waste by your activity in these investigations, reliable reports and personal interest in the discharge of your duties.

THOMAS J. AHEARN,

State Fire Marshal.

**STATE OF NEW YORK
DEPARTMENT STATE FIRE MARSHAL
ALBANY**

RECORD OF QUARTERS, APPARATUS AND WATER SYSTEM.....

CITY	}	COUNTY.....	DATE.....	19.....
TOWN				
VILLAGE				

Total,	COMPANY QUARTERS																		
	Engines	Trucks, wagons, carriages or jumper style	Size, style motor, or horse drawn or by hand	Motor, or horse drawn or by hand	Hook and ladder trucks	Motor or horse drawn or by hand	Ladders		Hose Lances				Water Mains						
							Number	Length in feet	Rubber — size, inches	Fabric — rubber, inches	Fabric inches	Chemical inches		Size	System	Pressure	Highest	Average	

Remarks:

Signature

NOTE — Report to this office any increase in Apparatus, Hose or Water System

NOTE — Report to this office any increase in Apparatus, Hose or Water System

**Chapter 453, Laws of 1912
Relative to State Fire Marshal**

**Chapter 332, Laws of 1912
Relative to Automatic Sprinklers**

**Chapter 194, Laws of 1913
Relative to Fire Protection in Factories**

**Chapter 23, Laws of 1913
Relative to Fire Alarm Signal System and Fire Drills**

**Chapter 308, Laws of 1913
Relative to Moving Picture Apparatus**

**Chapter 349, Laws of 1913
Relative to Violations of Labor Law**

GENERAL — ALL COUNTIES.

[Sixty-four folios,]

LAWS OF NEW YORK.— By Authority.

CHAPTER 453.

AN ACT to amend the insurance law, in relation to state fire marshal.

Became a law April 16, 1912, with the approval of the Governor. Passed three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article ten-a of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as inserted by chapter four hundred and fifty-one of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

ARTICLE 10-a.

STATE FIRE MARSHAL.

Section 350. Office of state fire marshal established; appointment; term; salary.

351. *Duties of the state fire marshal.

352. Deputies.

353. Assistant officers.

354. Duties of assistants to the state fire marshal to investigate the cause and origin of all fires and explosions.

355. Duties of the state fire marshal, and assistants to inspect public buildings.

356. Duties of the state fire marshal and assistants to inspect other property.

357. *Inspection of steam boilers.

358. Definition of explosives.

359. Regulations regarding quantity, distance from buildings, et cetera.

360. Explosives, where kept.

361. *Magazines classified.

362. Caps not kept in magazines.

363. *Reports of inspection to be made and certificate of compliance.

364. Transportation.

365. Record of sales.

366. Exceptions.

367. Fire arms.

368. Penalties regarding explosives.

369. Powers of state fire marshal, deputies and assistants.

370. Records.

371. Annual report.

372. Witnesses.

373. Duties of district attorney.

374. Compensation of assistants.

375. Penalties.

§ 350. Office of state fire marshal established; appointment; term; salary. The office of state fire marshal is hereby established. The governor is hereby authorized and empowered to appoint, within

* So in original.

thirty days after this act shall take effect, by and with the advice and consent of the senate, a suitable person who shall be a citizen of this state, as state fire marshal, who shall hold the office for a period of five years or until his successor is appointed and qualified. The office of the state fire marshal shall be located in the capitol in the city of Albany. He shall receive an annual salary of seven thousand dollars and shall be paid in addition his actual and necessary expenses incurred in the performance of the duties of his office. He shall devote his whole time to the duties of his office. Whenever there shall be a vacancy in the office of state fire marshal, the governor shall fill the vacancy for the unexpired term in the manner provided in this section. The state fire marshal and his deputies shall take and subscribe and file in the office of the secretary of state the constitutional oath within fifteen days from time of notice of their appointment respectively.

§ 351. It shall be the duty of the state fire marshal to enforce all laws and ordinances of the state, and the regulations made hereunder, except in cities having over one million inhabitants, as follows:

1. The prevention of fires;
2. The storage, sale or use of combustibles and explosives;
3. The installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment;
4. The inspection of steam boilers;
5. The construction, maintenance and regulation of fire escapes;
6. The means and adequacy of exit, in case of fire, from factories, asylums, hospitals, churches, schools, halls, theatres, amphitheatres and all other places in which numbers of persons work live, or congregate from time to time for any purpose and the institution and supervision of fire drills in such premises;
7. The suppression of arson and investigations of the cause, origin and circumstances of fires and explosions.
8. The adequacy and sufficiency of water supply and fire apparatus and their inspection for fire fighting purposes. (Amended by chap. 204, Laws 1913.)

§ 352. **Deputies.** The state fire marshal shall appoint a first deputy fire marshal, who shall receive an annual salary of five thousand dollars, and a second deputy fire marshal who shall receive an annual salary of five thousand dollars. Each such deputy shall also be paid his actual and necessary expenses in-

curred in the performance of the duties of his office. The state fire marshal shall also appoint a secretary and such other clerks and assistants as shall be needed in the performance of the duties of his office. In case of the absence of the state fire marshal, or his inability from any cause to discharge the duties of his office, such duties shall devolve upon the first deputy state fire marshal; and in case of the absence of the state fire marshal and the first deputy state fire marshal, or their inability from any cause to discharge the duties and powers of their office, such duties and powers shall devolve upon the second deputy state fire marshal.

§ 353. **Assistant officers.** All municipal fire marshals in those municipalities having such officers, and, where no such officer exists, the chief of the fire department of every incorporated city or village in which a fire department is established, or fire district under and pursuant to the county law, the president or like senior officer of each incorporated village in which no fire department exists, the chief of the fire department or like senior officer in an unincorporated village in which a fire department exists, and the clerk of each organized town without the limits of any incorporated village or city, shall be, by virtue of such office so held by them, assistants to the state fire marshal and subject to the duties and obligations imposed by this article and shall be subject to the directions of the state fire marshal in the execution of the provisions hereof.

Immediately upon taking office the state fire marshal shall prepare instructions to the assistants designated herein and forms for their use in the reports required by this article and cause them to be printed and sent, together with a copy of this article, to each such officer located in this state. Any officer referred to in this act who neglects to comply with any of the requirements hereof, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each neglect or violation and in default of the payment thereof shall be imprisoned not to exceed thirty days. (As amended by chap. 432, Laws 1913.)

§ 354. **Duties of the assistants to the state fire marshal to investigate the cause and origin of all fires and explosions.** The assistants to the state fire marshal as defined in the preceding section shall investigate the cause, origin and circumstances of every fire or explosion occurring in any city, village or town in

this state by which life has been lost or property has been destroyed or damaged, and, so far as it is possible, determine whether the fire or explosion was the result of carelessness or design. Such investigation shall be begun immediately upon the occurrence of such fire or explosion by the assistant in whose territory it has occurred, and if it appears to the officer making such investigation that such fire is of suspicious origin or that such explosion has been caused by negligence or design, the state fire marshal shall be immediately notified of such fact. Every fire or explosion occurring in this state shall be reported in writing to the state fire marshal within fifteen days after the occurrence of the same by the officer designated in section three hundred and fifty-three of this article in whose jurisdiction such fire or explosion has occurred; such report shall be in the form prescribed by the state fire marshal and shall contain a statement of all facts relating to the cause and origin of such fire or explosion that can be ascertained, the loss of life or the extent of damage, the insurance upon the property damaged, and such other information as may be required.

Every fire insurance company transacting business in this state is hereby required to report to the state fire marshal, through the secretary or other officer of the company designated by the board of directors for that purpose, all fire losses on property within this state, insured in such company, giving the date and location of fire, the amount of probable loss, the character of property destroyed or damaged, and the supposed cause of the fire. Such reports shall be mailed to the state fire marshal on or before the tenth day of each month as to all fires of which notice was received during the preceding month, and shall include, either in the first or subsequent monthly report, the amount of loss as adjusted. Provided, that in all cases where such company receives evidence or information indicating that any fire was of incendiary origin, report of such fire and of such evidence or information shall be immediately mailed to the state fire marshal. Such reports shall be in addition to and not in lieu of any report or reports such companies may be required to make by any law of the state to the superintendent of insurance or other state officer. (As amended by chap. 433, Laws 1913.)

§ 355. Duties of the state fire marshal and assistants to inspect public buildings. The state fire marshal and his deputies or the assistant state fire marshals under his direction shall at least

once a year make an inspection of all the buildings, premises and institutions wherever they may be situated which are owned or controlled by the state of New York or supported in whole or in part by the funds of the state of New York and all other buildings owned or controlled by any county, town or village or other political subdivision of the state of New York or which are supported in whole or in part by the funds of such counties, towns or villages or other political subdivision except in cities having more than one million inhabitants. He shall cause a report of such inspection to be filed with the board, commission or officer having charge or supervision of said buildings, premises and institutions and it shall be the duty of said board, commission or officer to comply as soon as possible with the recommendations made by the state fire marshal.

§ 356. **Duties of the state fire marshal, and assistants to inspect other property.** The state fire marshal, his deputies or assistants, upon the complaint of any person or whenever he or they shall deem it necessary, shall inspect all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure, which, for want of repairs, lack of or insufficient fire escapes, automatic or other fire-alarm apparatus or fire-extinguishing equipment, or by reason of age or dilapidated condition or for any other cause is especially liable to fire or to cause loss of life or damage to property, and whenever such officer shall find in any building or other premises any explosive materials or inflammable conditions dangerous to life or property, he or they shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner, lessee or occupant of such premises or buildings. If such order is made by any deputy or assistant to the state fire marshal such owner, lessee or occupant may, within five days, appeal to the state fire marshal, who shall, within ten days, review such order and file his decision thereon, and unless by his authority the order is revoked or modified it shall remain in full force and be obeyed by such owner, lessee or occupant. Such owner, lessee or occupant may have the order or the final determination on an appeal of an order issued by the state fire marshal reviewed by a writ of certiorari in a court of competent jurisdiction provided proceedings for such review are begun within ten days after such order has been served or appeal finally determined.

The service of any such order shall be made upon the owner lessee or occupant of the premises to whom it is directed by either delivering a true copy of the same to such owner, lessee or occupant personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises; whenever it may be necessary to serve such an order upon the owner, lessee or occupant of premises such order may be served by either delivering to and leaving with the said person a true copy of the said order, or, if such owner, lessee or occupant is absent from the jurisdiction of the officer making the order, by mailing such copy to the last known post-office address of said owner, lessee or occupant.

Any owner, lessee or occupant failing to comply with such order within ten days after said appeal shall have been determined, or, if no appeal is taken, then within ten days after the service of the said order, shall be liable to a penalty of fifty dollars for each day's neglect thereafter.

The penalty herein provided may be recovered in an action brought in any court of the county where such property is located, in the name of the people of the state under the direction of the state fire marshal or any of his assistants herein designated, by an attorney specially designated therefor by the attorney-general or by an attorney designated by the state fire marshal.

Whenever an order has been served requiring the demolition of a building or other structure, or the removal of explosive materials therefrom as hereinbefore provided, and the owner, lessee or occupant thereof has failed to comply with such order or failed to apply to a court to review the order within the time herein specified, the state fire marshal may cause such building or other structure to be demolished or such explosive material to be removed and stored elsewhere or destroyed at the discretion of the state fire marshal and the expense incurred by the state fire marshal in such demolition or in the removal of explosive materials and also any penalty recovered, as provided for in this section, shall constitute a first lien upon the premises occupied by such building or structure or where such explosive material was stored.

Whenever an order has been served requiring the installation, alteration or repair of fire escapes or exits upon any building or structure in which numbers of persons work, live or congregate

from time to time for any purpose, and the owner, lessee or occupant has failed to comply with said order within the time herein specified, the state fire marshal may, in addition to any other penalty mentioned in this article, prosecute such owner or occupant in the criminal courts, and upon conviction such owner, lessee or occupant shall be liable to punishment as for a misdemeanor. (As amended by chap. 434, Laws 1913.)

§ 357. **Boiler inspection.** The state fire marshal shall also cause to be inspected all boilers in buildings and all other places where same are used for the generation of steam and which carry a steam pressure of ten pounds or more to the square inch, except where a certificate has been filed in the office of the state fire marshal certifying that such boilers have been inspected by a duly authorized insurance company in conformity with the regulations prescribed by the state fire marshal and that upon such inspection such boilers have been found to be in a safe condition. Every such insurance company shall report all boilers insured by them, coming within the provisions of this section, including those rejected, together with the reason therefor. A fee of five dollars shall be charged the owner or lessee of each boiler inspected by the inspector of the office of the state fire marshal, but not more than the sum of ten dollars shall be collected for the inspection of any one boiler for any year. Such fee shall be payable within thirty days from the date of such inspection.

Whenever a certificate of inspection, filed in the office of the state fire marshal, shows that a boiler is in need of repairs or is in an unsafe or dangerous condition, the state fire marshal shall order such repairs to be made to such boiler as in his judgment may be necessary and he shall order the use of such boiler to be discontinued until said repairs are made or said dangerous and unsafe conditions remedied. Such order shall be served upon the owner or lessee of such boiler in the manner provided in section three hundred and fifty-six of this article and any owner or lessee failing to comply with such order within the time specified in said section three hundred and fifty-six shall be liable to the penalties prescribed therein. Nothing contained in this section shall apply to boilers used for the generation of steam on vessels, railroad locomotives or fire engines operated by any organized fire department, nor shall this section have any application to cities in which boilers are regularly inspected by competent inspectors, acting under the authority of local laws or ordinances.

Every owner or lessee of a boiler who shall use or allow a boiler to be used by any one in his employ after notice that such boiler is in an unsafe or dangerous condition shall be subject to a fine not to exceed five dollars for each day on which such boiler is used after such notice as aforesaid.

Owners and lessees of boilers shall attach to such boilers the numbers assigned by the state fire marshal under the like penalty for failure to do so.

Owners and lessees of boilers within cities and incorporated villages shall notify the chiefs of fire departments, or other assistants to the state fire marshal therein, of the location of each boiler. Such chiefs and assistants shall keep a record thereof in their respective offices and forward a copy thereof in January and July of each year to the state fire marshal.

In outlying districts such report shall be made to town clerks who shall in like manner keep records thereof and forward the same. These provisions shall, however, only apply to boilers used for generation of steam pressure of ten pounds or more to the square inch.

§ 2. Section ninety-one of chapter thirty-six of the laws of nineteen hundred and nine, entitled "An act relating to labor, constituting chapter thirty-one of the consolidated laws," is hereby repealed. (As amended by chap. 523, Laws 1913.)

§ 358. **Definition of explosives.** The term "explosive" or "explosives," whenever used in this act, shall be held to mean and include any chemical compound or any mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that at ignition, by fire, by friction, by concussion, by percussion or by detonator, of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects to contiguous objects or of destroying life or limb, but not including colloidized nitro-cellulose in sheets or rods or grains not under one-eighth of an inch in diameter, wet nitro-cellulose containing twenty per centum or more moisture and wet nitro starch containing twenty per centum or more moisture. For the purposes of this act, manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantity, of such nature, or in such packing, that it is impossible to produce a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by detonator.

tion, by concussion, by percussion or by detonator, such as fixed ammunition for small arms, fire-crackers, safety fuse, matches, et cetera.

The term "highway" whenever used in this article shall be held to mean and include any public street or public highway, or any steam, electric or other railroad.

The term "building" whenever used in sections three hundred and fifty-eight to three hundred and sixty-five, inclusive, shall be held to mean and include only any building regularly occupied in whole or in part as a habitation for human beings, and any church, schoolhouse, railway station or other building where people are accustomed to assemble.

The term "person" whenever used in this article shall be held to mean and include corporations and joint stock associations, as well as natural persons.

The term "factory building" whenever used in this article shall be held to mean any building or other structure containing explosives, in which the manufacture of explosives or any part of the manufacture is carried on.

The term "magazine" whenever used in this article shall be held to mean and include any building or other structure used to store explosives.

The term "efficient artificial barricade" whenever used in this article shall be held to mean an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet.

Words used in the singular number shall include the plural and the plural the singular.

§ 359. **Regulations regarding quantity, distance from buildings, et cetera.** No person shall manufacture, have, keep or store explosives except in compliance with this article. The quantity of explosives that may be lawfully had, kept or stored in any factory building or magazine shall depend upon the distance that such factory building or magazine is situated from buildings and highways, and the protection offered by natural or efficient artificial barricade to such buildings or highways. Whenever any of the quantities given in column one of the quantity and distance table hereinafter set forth is had, kept or stored in any factory building or magazine in this state, the distance that any quantity given in column one of said table may be lawfully had, kept or stored from buildings is the distance set opposite said quantity in column two of said table, and the distance that any quantity

given in column one of said table may be lawfully had, kept or stored from highways is the distance set opposite said quantity in column three of said table. The quantity and distance table governing the making, keeping or storing of explosives is as follows:

Column 1. Quantity that may be lawfully kept or stored from nearest building or highway.	Column 2. Distance from nearest building. Feet.	Column 3. Distance from nearest highway. Feet.
Over 100 and not over 200.....	360	220
Over 200 and not over 300.....	520	310
Over 300 and not over 400.....	640	380
Over 400 and not over 500.....	720	420
Over 500 and not over 600.....	800	480
Over 600 and not over 700.....	860	520
Over 700 and not over 800.....	920	550
Over 800 and not over 900.....	980	590
Over 900 and not over 1,000.....	1,020	610
Over 1,000 and not over 1,500.....	1,060	640
Over 1,500 and not over 2,000.....	1,200	720
Over 2,000 and not over 3,000.....	1,300	780
Over 3,000 and not over 4,000.....	1,420	870
Over 4,000 and not over 5,000.....	1,500	900
Over 5,000 and not over 6,000.....	1,560	940
Over 6,000 and not over 7,000.....	1,610	970
Over 7,000 and not over 8,000.....	1,660	1,000
Over 8,000 and not over 9,000.....	1,700	1,020
Over 9,000 and not over 10,000.....	1,740	1,040
Over 10,000 and not over 20,000.....	1,780	1,070

Column 1. Quantity that may be lawfully kept or stored from nearest building or highway.	Column 2. Distance from nearest building. Feet.	Column 3. Distance from nearest building. Feet.
Over 20,000 and not over 30,000.....	2,110	1,270
Over 30,000 and not over 40,000.....	2,410	1,450
Over 40,000 and not over 50,000.....	2,680	1,610
Over 50,000 and not over 60,000.....	2,920	1,750
Over 60,000 and not over 70,000.....	3,130	1,880
Over 70,000 and not over 80,000.....	3,310	1,990
Over 80,000 and not over 90,000.....	3,460	2,080
Over 90,000 and not over 100,000.....	3,580	2,150
Over 100,000 and not over 200,000.....	3,670	2,200
Over 200,000 and not over 300,000.....	4,190	2,510

Maximum allowed.

No quantity in excess of three hundred thousand pounds shall be had, kept or stored in any factory building or magazine in this state. Whenever the building or highway to be protected is effectually screened from the factory building or magazine, where explosives are had, kept or stored, either by natural features of the ground or by an efficient artificial barricade of such height that any straight line drawn from the top of any side wall of the factory building or magazine to any part of the building to be protected will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the factory building or magazine to any point twelve feet above the center of the highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distance given in columns two and three of the quantity and distance table may be reduced one-half.

§ 360. **Explosives kept in suitable containers.** Except only at a factory building no person shall have, keep or store explosives at any place within this state unless such explosives are completely enclosed and encased in tight metal, wooden or fibre containers, and, except while being transported or in the custody of a common carrier awaiting shipment or pending delivery to a consignee, shall be kept and stored in a magazine constructed and operated as provided in section three hundred and sixty-one of this article, and no person having explosives in his possession or control shall, under any circumstances, permit or allow any grains or particles to be or remain on the outside or about the containers in which such explosives are held. All containers in which explosives are held shall be plainly marked with the name of the explosives contained therein.

§ 361. **Magazines in which explosives may lawfully be kept or stored shall be of two classes, as follows:**

(a) **Magazines of the first class shall consist of those containing explosives exceeding fifty pounds, and shall be constructed of brick, concrete, iron or wood covered with iron, and shall have no openings except for ventilation and entrance. The doors of such magazine must at all times be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks of fire through the**

same, upon each side and each end of such magazine, or upon its barricade, there shall at all times be kept conspicuously posted a sign, with words "Magazine — Explosives — Dangerous" legibly printed thereon in letters not less than six inches high. No matches or fire of any kind shall at any time be permitted in any such magazine. No package of explosives shall at any time be opened in or within fifty feet of any magazine, nor shall any open package of explosives be kept therein. Magazines in which more than fifty pounds of explosives are kept and stored must be detached, and those where more than five thousand pounds are kept and stored must be located at least two hundred feet from any other magazine.

(b) Magazines of the second class shall be made of fireproof material, or wood covered with sheet iron, and not more than fifty pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign, with words "Magazine — Explosives — Dangerous" legibly printed thereon, and not more than two such magazines shall be had or kept in any building.

§ 362. **Caps not kept in magazine.** No blasting caps, or other detonating or fulminating caps or detonators, shall be kept or stored in any magazine in which explosives are kept or stored.

§ 363. All persons engaged in keeping or storing explosives on the date when the provisions of this section take effect shall within sixty days thereafter, and all persons engaging in keeping or storing explosives after the provisions of this section take effect shall, before engaging in the keeping or storing of explosives, make a report to the state fire marshal on blanks to be furnished by him stating:

(1) The location of the magazine, if then existing, or in case of a new magazine, the proposed location of such magazine.

(2) The kind of explosives that are kept or stored or intended to be kept or stored and the maximum quantity that is intended to be kept or stored thereat.

(3) The distance that such magazine is located or intended to be located from the nearest buildings and highways.

The state fire marshal shall, as soon as may be after receiving such report, cause an inspection to be made of the magazine, if

then constructed, and in the case of a new magazine, as soon as may be after same is constructed. If upon such inspection the magazine is found to be constructed in accordance with the specifications provided in section three hundred and sixty-one of this act, the state fire marshal shall determine the amount of explosives that may be kept or stored in such magazine by reference to the quantity and distance table set forth in section three hundred and fifty-nine in this act and shall issue a certificate to the person applying therefor, showing compliance with the provisions of this act, which certificate shall set forth the maximum quantity of explosives that may be had, kept or stored in said magazine. Such certificate of compliance shall be valid until cancelled for cause as hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the certificate of compliance therefor, such as the erection of buildings nearer said magazine or the opening of highways, the state fire marshal shall modify or cancel such certificate in accordance with the changed conditions. Whenever any person to whom a certificate of compliance has been issued keeps or stores in the magazine covered by such certificate of compliance any quantity of explosives in excess of the maximum amount set forth in such certificate of compliance issued therefor, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the state fire marshal is authorized to cancel such certificate of compliance and to order the removal of all explosives stored in said magazine as provided in section three hundred and fifty-six of this article.

Every person engaging in the keeping or storing of explosives shall pay an annual license fee for each magazine maintained, to be graduated by the state fire marshal according to the quantity kept or stored therein, of not less than five dollars nor more than twenty-five dollars. Said license fee shall be payable in advance to the state fire marshal and by him paid to the state treasurer.

§ 364. **Transportation.** Every vehicle while carrying explosives shall display upon an erect pole on the front end of such vehicle and at such height that it shall be visible from all directions a red flag with the word "danger" printed, stamped or sewed thereon in white letters. Such flag shall be at least eighteen inches by thirty inches in size, and the letters thereon shall be at least twelve inches in height.

(a) It shall be unlawful for any person in charge of a vehicle containing explosives to smoke in or upon such vehicle, to drive the vehicle while intoxicated, to drive the vehicle or to conduct himself in a careless or reckless manner or to load or unload such vehicle in a careless or reckless manner or while smoking or intoxicated.

(b) It shall be unlawful for any person to place or carry, or cause to be placed or carried in or upon any vehicle containing explosives any metal tool or other piece of metal.

(c) It shall be unlawful for any person to place or carry in or upon a vehicle containing explosives any exploders, detonators, blasting caps or other explosive material, or to carry in or upon any such vehicle any matches or any mechanical device for producing spark, flame or heat.

Nothing contained in this article shall apply to explosives while being transported upon vessels or railroad cars in conformity with the regulations adopted by the interstate commerce commission, nor to the transportation or use of blasting explosives in quantities not exceeding five pounds at any one time. (As amended by chap. 393, Laws 1913.)

§ 365. **Records of sale.** Every person selling or giving away explosives within this state shall keep at all times an accurate journal or book of record in which must be entered from time to time, as it is made, each and every sale made by such person in the course of business, or otherwise, of any quantity of explosives. Such journal or record book must show in a legible writing, to be entered therein at the time, a complete history of each transaction stating the name and quantity of explosives sold, name, place of residence and business of the purchaser, name of individual to whom delivered, with his or her address. Such journal or book of record must be kept by the person so selling explosives in his or their principal office or place of business at all times subject to the inspection and examination of the state fire marshal, his deputies, and the police authorities of the county or municipality where same is situated, on proper demand therefor. Nothing in this section, however, shall apply to persons selling or giving away explosives in quantities of five pounds or less at any one time.

§ 366. **Exceptions.** Nothing contained in this article in sections three hundred and fifty-eight to three hundred and sixty-five, inclusive, shall be deemed to include gasoline, kerosene, naphtha, turpentine or benzine.

§ 367. **Firearms.** No person shall discharge any firearms within five hundred feet of any magazine or factory, except that the provisions of this section shall not apply to the testing of firearms in or upon the premises of any manufacturing plant engaged in the manufacture of firearms. The method of testing all firearms in any manufacturing plant engaged in the business of manufacturing firearms shall be subject to the approval of the state fire marshal. (As amended by chap. 214, Laws 1913.)

§ 368. **Penalties.** Whoever fails to comply with or violates any provisions of sections three hundred and fifty-eight to three hundred and sixty-seven, inclusive, shall be guilty of a misdemeanor.

§ 369. **Powers of the state fire marshal, deputies and assistants.** The state fire marshal or his deputies may, in addition to the investigation made by any of his assistants at any time investigate as to the origin or circumstances of any fire or explosion occurring in this state. The state fire marshal, his deputies and assistants shall have the power to summon witnesses and compel them to attend before them, or either of them, and to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent or necessary to the inquiry, and shall have the power to administer oaths and affirmations to any person appearing as witness before them; such examination may be public or private as the officers conducting the investigation may determine.

If after any such examination of witness, or any investigation, the state fire marshal or any of his deputies or assistants is of the opinion that the facts in relation to a fire or explosion indicate that a crime has been committed, he shall present the testimony taken on such examination, together with any other data in his possession to the district attorney of the proper county, with a request that he institute such criminal proceedings as such testimony or data may warrant.

The state fire marshal or his deputies or any of his assistants may at all reasonable hours enter any building or premises within his jurisdiction for the purpose of making an inspection which, under the provisions of this article, he or they may deem necessary to be made.

In the absence of any local ordinance it shall be the duty of the assistants to the state fire marshal specified in section three hun-

dred and fifty-three to inspect or cause to be inspected by fire department officers or members, as often as may be necessary, but not less than twice a year in outlying districts and four times a year in closely built portions, all buildings, premises, and public thoroughfares, except interiors of private dwellings for the purpose of ascertaining and causing to be corrected, any conditions liable to cause fire, or any violations of the provisions or intent of the statute and affecting the fire hazard.

Whenever any such assistant shall find any building or other structure which for want of repairs, or by reason of age or dilapidated condition or for any other cause, is especially liable to fire, and which is so situated as to endanger other property, and whenever any such assistant shall find in any building or upon any premises or other place, combustible or explosive matter or dangerous accumulations of rubbish or of unnecessary accumulations of waste paper, boxes, shavings or any other highly inflammable materials, especially liable to fire, and which is so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows, liable to interfere with the operations of the fire department, or egress of occupants, in case of fire, he shall order the same to be removed or remedied and such order shall forthwith be complied with by the owner, lessee or occupant of such premises or buildings, and in the event of his neglect or refusal, the provisions of section three hundred and fifty-six are hereby made applicable. (As amended by chap. 405 and chap. 520, Laws 1913.)

§ 370. **Records.** The state fire marshal shall keep in his office a record of all fires and explosions occurring in the state and of all the facts concerning the same, including statistics as to the extent of loss of life and the damage to property caused thereby, and whether the damages to property were covered by insurance, and if so, in what amount. Such records shall be made daily from the reports made to him by his assistants under the provisions of this article. All such records shall be public except any testimony taken in an investigation under the provisions of this article which the fire marshal in his discretion may withhold from the public.

§ 371. **Annual report.** The state fire marshal shall, annually, on or before the fifteenth day of February, transmit to the legislature a full report of his proceedings under this article and such statistics as he may wish to include therein; he shall also recom-

mend any amendments to the law which in his judgment shall be desirable.

§ 372. **Witnesses.** Any witness who refuses to obey a summons of the state fire marshal, his deputies or his assistants or who refuses to be sworn or testify, or who disobeys any lawful order of the state fire marshal, his deputies or his assistants in relation to an investigation instituted by him or them, or fails or refuses to produce any books, paper or document touching on any matter under investigation or examination, or who is guilty of any contemptuous act after being summoned to appear before him, or either of them, to give testimony in relation to any matter or subject under examination or investigation as aforesaid, may be punished as for contempt of court. Each person summoned to appear and testify before the state fire marshal or any of his deputies and assistants shall receive from the state treasurer upon the audit of the state fire marshal, for mileage and fees, such sum or sums, as provided for witnesses in section thirty-three hundred and eighteen of the code of civil procedure.

§ 373. **Duties of district attorney.** The district attorney of any county upon request of the state fire marshal, his deputies or his assistants, shall assist such officers upon an investigation of any fire or explosion which, in their opinion, is of a suspicious origin.

§ 374. **Compensation of assistants.** Except in cities having over seventy-five thousand inhabitants all assistants of the state fire marshal not receiving a salary from the state of New York shall receive, upon the audit of the state fire marshal, fifty cents for each report of each separate fire or explosion reported to the state fire marshal and fifty cents for each order served under the provisions of this article, and in addition there shall be paid to such assistants of the state fire marshal, whose duty it shall have been to make and who actually made an investigation or an inspection, the sum of fifteen cents for each mile traveled to the place of fire or explosion or to premises inspected, and, in the discretion of the state fire marshal, where an investigation has been had or an inspection has been made by his direction a sum not to exceed two dollars for each day's service spent in such investigation or inspection, fifty cents for each fire drill held under their supervision and also postage and other actual and necessary expenses incurred in the performance of their duty under this article.

§ 375. **Penalties.** All penalties, fees or forfeitures collected under the provisions of this article shall be paid into the treasury of the state of New York.

§ 377. **County clerks to furnish lists.** County clerks shall on or before January fifteenth, in each year, forward to the state fire marshal for the purposes of his department full and accurate lists of all municipal fire marshals, chiefs of fire departments or like senior officers in incorporated and unincorporated cities and villages, or fire districts under the county law, presidents or like senior officers of each incorporated village and clerks of each organized town without the limits of any incorporated village or city. (As added by chap. 192, Laws 1913.)

§ 378. **Reports of assistants to state fire marshal.** The municipal fire marshals, fire chiefs and all other assistants under this article shall report yearly between the first days of May and June, in detail the extent and condition of their respective fire departments, apparatus or stations, water supply and service, and any recommendation or suggestion which in their opinion would tend to increase the usefulness of their departments or decrease the fire hazards in their respective localities. (As added by chap. 431, Laws 1913.)

§ 379. **State fire marshal to make regulations.** The state fire marshal is hereby authorized and empowered to formulate and adopt suitable regulations upon each of the subjects enumerated in section three hundred and fifty-one of this article, and from time to time to make amendments thereto. He shall cause a copy of such regulations to be filed with the clerk of each county, town or village, and it shall be the duty of members of the fire and police departments and of the legally constituted law officers of each city, town or village to assist the state fire marshal in the enforcement of this article and the regulations made thereunder, provided, however, that nothing herein contained shall be construed to confer on the state fire marshal any authority or power to adopt such regulations upon the subjects covered in sections three hundred and fifty-eight to three hundred and sixty-seven both inclusive. (As added by chap. 303, Laws 1913.)

§ 2. This act shall not apply to cities having more than one million inhabitants, which maintain a municipal fire marshal except that such municipal fire marshal shall prepare and forward

such reports as to fires, et cetera, which the state fire marshal may require and except that the state fire marshal shall inspect all buildings, premises or institutions owned or controlled by the state or supported in whole or in part by the funds of the state situated within said cities.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect immediately.

STATE OF NEW YORK, }
Office of the Secretary of State. } ss.:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

EDWARD LAZANSKY,
Secretary of State.

CHAP. 332, LAWS 1912.

AN ACT to amend the labor law, in relation to automatic sprinklers.

§ 83-b. **Automatic sprinklers.** In every factory building over seven stories or over ninety feet in height in which wooden flooring or wooden trim is used and more than two hundred people are regularly employed above the seventh floor or more than ninety feet above the ground level of such building, the owner of the building shall install an automatic sprinkler system approved as to form and manner, in the city of New York by the fire commissioner of such city, and elsewhere by the state fire marshal. Such installation shall be made within one year after this section takes effect, but the fire commissioner of the city of New York in such city and the state fire marshal may for good cause shown, extend such time for an additional year. A failure to comply with this section shall be a misdemeanor as provided by section twelve hundred and seventy-five of the penal law and the provisions hereof shall also be enforced in the city of New York by the fire commissioner of such city in the manner provided by title three of chapter fifteen of the Greater New York charter, and elsewhere by the state fire marshal in the manner provided by article ten-a of the insurance law.

CHAP. 194, LAWS 1913.

AN ACT to amend the labor law, in relation to fire prevention in factories.

§ 83-c. **Fireproof receptacles; gas jets; smoking.** 1. Every factory shall be provided with properly covered fireproof receptacles, the number, style and location of which shall be approved in the city of New York by the fire commissioner, and elsewhere, by the commissioner of labor. There shall be deposited in such receptacles all inflammable waste materials, cuttings and rubbish. No waste materials, cuttings or rubbish shall be permitted to accumulate on the floors of any factory but shall be removed therefrom not less than twice each day. All such waste materials, cuttings and rubbish shall be entirely removed from a factory building at least once in each day, except that baled waste material may be stored in fireproof enclosures provided that all such baled waste material shall be removed from such building at least once in each month.

2. All gas jets or lights in factories shall be properly enclosed by globes, wire cages or otherwise properly protected in a manner approved in the city of New York by the fire commissioner of such city, and elsewhere, by the commissioner of labor.

3. No person shall smoke in any factory. A notice of such prohibition stating the penalty for violation thereof shall be posted in every entrance hall and every elevator car, and in every stair-hall and room on every floor of such factory in English and also in such other language or languages as the fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal shall enforce the provisions of this subdivision.

CHAP. 203, LAWS 1913.

AN ACT to amend the labor law, in relation to fire alarm signal systems and fire drills.

§ 83-a. **Fire alarm signal systems and fire drills.** 1. Every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor shall be equipped with a fire alarm signal system with a sufficient number of signals clearly audible to all occupants thereof. The industrial board may make rules and regulations prescribing the number and location of such signals. Such system shall be installed by the owner or lessee of the building and shall permit the sounding of all the alarms within the building whenever the alarm is sounded in any portion thereof. Such system shall be maintained in good working order. No person shall tamper with, or render ineffective any portion of said system except to repair the same. It shall be the duty of whoever discovers a fire to cause an alarm to be sounded immediately.

2. In every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor, a fire drill which will conduct all the occupants of such building to a place of safety and in which all the occupants of such building shall participate simultaneously shall be conducted at least once a month.

In the city of New York the fire commissioner of such city, and in all other parts of the state, the state fire marshal shall cause to be organized and shall supervise and regulate such fire drills, and shall make rules, regulations and special orders necessary or suitable to each situation and in the case of buildings containing more than one tenant, necessary or suitable to the adequate co-operation of all the tenants of such building in a fire drill of all the occupants thereof. Such rules, regulations and orders may prescribe upon whom shall rest the duty of carrying out the same. Such special orders may require posting of the same or an abstract thereof. A demonstration of such fire drill shall be given upon the request of an authorized representative of the fire department of the city, village or town in which the factory is located, and, except in the city of New York, upon the request of the state fire marshal or any of his deputies or assistants.

3. In the city of New York the fire commissioner of such city, and elsewhere, the state fire marshal is charged with the duty of enforcing this section. (In effect October 1, 1913.)

CHAP. 308, LAWS 1913.

ARTICLE 12-A.

PUBLIC ENTERTAINMENTS OR EXHIBITIONS BY CINEMATOGRAPH
OR ANY OTHER APPARATUS FOR PROJECTING MOVING
PICTURES.

Section 209. Fireproof booth for cinematograph or any other apparatus for projecting moving pictures.

210. Construction of booth; approval of plans and specifications.

211. This article not retroactive under certain conditions.

212. Inspection; certificate for permanent booths.

213. Portable booth for temporary exhibitions.

214. Exemption and requirements for miniature cinematograph machines.

215. Inspection; certificate for portable booths and inclosures for miniature cinematograph machines.

216. Penalty for violating this article.

§ 209. Fireproof booth for cinematograph or any other apparatus for projecting moving pictures. No cinematograph or any other apparatus for projecting moving pictures, save as excepted in sections two hundred and eleven and two hundred and thirteen of this article, which apparatus uses combustible films of more than ten inches in length, shall be set up for use or used in any building, place of public assemblage or entertainment, unless such apparatus for the projecting of moving pictures shall be inclosed therein in a booth or inclosure constructed of concrete, brick, hollow tile or other approved fireproof material or any approved fireproof framework covered or lined with asbestos board, or with some other approved fire resisting material, and unless such booth shall have been constructed as provided in section two hundred and ten of this article and the certificate provided in section two hundred and twelve of this article shall have been issued to the owner or lessee of the premises wherein such booth is situated.

§ 210. Construction of booth; approval of plans and specifications. The booths provided for in section two hundred and nine of this article shall be constructed according to plans and specifications which shall have been first approved, in a city, by the

mayor or chief executive officer of the city department having supervision of the erection of buildings in such city; in a village, by the president of such village; in a town outside the boundaries of a city or village, by the supervisor of such town. Provided, however, that no plans and specifications for the construction of such booths shall be approved by any public official, unless the following requirements are substantially provided for in such plans and specifications:

1. Dimensions. Such booths shall be at least six feet in height. If one machine is to be operated in such booth the floor space shall be not less than forty-eight square feet. If more than one machine is to be operated therein, an additional twenty-four square feet shall be provided for each such additional machine.

2. General specifications. In case such booth is not constructed of concrete, brick, hollow tile or other approved fireproof material than asbestos, such booth shall be constructed with an angle framework of approved fireproof material, the angles to be not less than one and one-quarter inches by three-sixteenths of an inch thick, the adjacent members being joined firmly with angle plates of metal. The angle members of the framework shall be spaced not more than four feet apart on the sides and not more than three feet apart on the front and back and top of such booth. The sheets of asbestos board or other approved fire-resisting material shall be at least one-quarter of an inch in thickness and shall be securely attached to the framework by means of metal bolts and rivets. The fire-resisting material shall completely cover the sides, tops and all joints of such booth. The floor space occupied by the booth shall be covered with fire-resisting material not less than three-eighths of an inch in thickness. The booth shall be insulated so that it will not conduct electricity to any other portion of the building. There shall be provided for the booth a door not less than two feet wide and five feet ten inches high, consisting of an angle frame of approved fireproof material covered with sheets of approved fireproof material one-quarter of an inch thick, and attached to the framework of the booth by hinges, in such a manner that the door shall be kept closed at all times, when not used for ingress or egress.

The operating windows, one for each machine to be operated therein and one for the operator thereof, shall be no longer than reasonably necessary, to secure the desired service, and shutters of approved fireproof material shall be provided for each window. When the windows are open, the shutters shall be so suspended

and arranged that they will automatically close the window openings, upon the operating of some suitable fusible or mechanical releasing device.

Where a booth is so built that it may be constructed to open directly on the outside of the building through a window, such window shall be permitted for the comfort of the operator, but such booth shall not be exempted from the requirement of the installation of a vent flue as hereinafter prescribed. Said booth shall contain an approved fireproof box for the storage of films not on the projecting machine. Films shall not be stored in any other place on the premises; they shall be rewound and repaired either in the booth or in some other fireproof inclosure. The booth in which the picture machine is operated shall be provided with an opening or vent flue in its roof or upper part of its side wall leading to the outdoor air. The vent-flue shall have a minimum cross-sectional area of fifty square inches and shall be fireproof. When the booth is in use there shall be a constant current of air passing outward through said opening or vent flue at the rate of not less than thirty cubic feet per minute.

§ 211. **This article not retroactive under certain conditions.** Sections two hundred and nine and two hundred and ten of this article shall not be retroactive for any booth approved by the appropriate public authority or official prior to this article taking effect, provided such booth have or be so reconstructed of the same material as to have dimensions as specified in section two hundred and ten of this article; provided such booth conform to the specification of section two hundred and ten as regards vent flue, box for storage of films, specifications for rewinding and repairing films and specifications for windows and doors, and provided such booth be of rigid fireproof material, and be insulated so as not to conduct electricity to any other part of the building and be so separated from any adjacent combustible material as not to communicate fire through intense heat in case of combustion within the booth.

§ 212. **Inspection; certificate for permanent booths.** After the construction of such booth shall have been completed, the public officer charged herein with the duty of passing upon the plans and specifications therefor shall within three days after receipt of notice in writing that such booth has been completed cause such booth to be inspected. If the provisions of sections two hundred and nine, and two hundred and ten of this article have

been complied with, such public officer shall issue to the owner or lessee of the premises wherein such booth is situated a certificate stating that the provisions of sections two hundred and nine and two hundred and ten of this article have been complied with.

§ 213. **Portable booth for temporary exhibitions.** Where motion pictures are exhibited daily for not more than one month, or not oftener than three times a week, in educational or religious institutions or bona fide social, scientific, political or athletic clubs, a portable booth may be substituted for the booth required in sections two hundred and nine and two hundred and ten of this article. Such booth shall have a height of not less than six feet and an area of not less than twenty square feet and shall be constructed of asbestos board, sheet steel of no less gauge than twenty-four; or some other approved fireproof material. Such portable booth shall conform to the specifications of section two hundred and ten of this article with reference to windows and door, but not with reference to vent flues. The floor of such booth shall be elevated above the permanent support on which it is placed by a space of at least one-half inch, sufficient to allow the passage of air between the floor of the booth and the platform on which the booth rests, and the booth shall be insulated so that it will not conduct electricity to any other portion of the building.

§ 214. **Exemption and requirements for miniature cinematograph machines.** The above sections, two hundred and nine, two hundred and ten, two hundred and eleven, two hundred and twelve and two hundred and thirteen, referring to permanent and portable booths, shall not apply to any miniature motion picture machine in which the maximum electric current used for the light shall be three hundred and fifty watts. Such miniature machine shall be operated in an approved box of fireproof material constructed with a fusible link or other approved releasing device to close instantaneously and completely in case of combustion within the box. The light in said miniature machine shall be completely inclosed in a metal lantern box covered with an unremovable roof.

§ 215. **Inspection; certificate for portable booths and * miniature cinematograph machines.** Before moving pictures shall be exhibited with a portable booth, under section two hundred and thirteen of this article, and before a miniature machine without

*So in original.

a booth shall be used as prescribed in section two hundred and fourteen of this article, there shall be obtained from the appropriate authority, as defined in section two hundred and ten of this article, a certificate of approval.

§ 216. **Penalty for violating this article.** The violation of any of the provisions of this article shall constitute a misdemeanor. This act shall not apply to cities which have local laws or ordinances now in force which provide for fireproof booths of any kind for moving picture machines or apparatus.

CHAP. 349, LAWS 1913.

AN ACT to amend the penal law, in relation to violations of provisions of the labor law, the industrial code, the rules and regulations of the industrial board of the department of labor and the orders of the commissioner of labor.

§ 1275. **Violations of provisions of labor law; the industrial code; the rules and regulations of the industrial board of the department of labor; orders of the commissioner of labor.** Any person who violates or does not comply with any provision of the labor law, any provision of the industrial code, any rule or regulation of the industrial board of the department of labor, or any lawful order of the commissioner of labor; and any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by articles six and eleven of the labor law to appear in any affidavit, record, transcript or certificate therein provided for, is guilty of a misdemeanor and upon conviction shall be punished, except as in this chapter otherwise provided, for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

§ 2. Section twelve hundred and seventy-three of such chapter is hereby repealed.

EDUCATIONAL FIRE PREVENTION METHODS AND UNIFORM STATE FIRE MARSHAL LAWS.

By THOMAS J. AHEARN, New York.

Fire Marshal of the State of New York.

(Read at the Convention of International Association of Fire Engineers, New York, September 1-6, 1913.)

At the outset of my remarks I desire to express to you my sincere thanks for the invitation to address the International Association of Fire Engineers. The subject of fire prevention and fire protection is an exhaustive one; it would require unlimited time to go thoroughly into the many interesting branches. It is therefore my intention to briefly synopsis the many interesting features pertaining to fire prevention and with your permission place the details of my discourse on file in the minutes of your meeting here to-day for future reference.

The only means of reaching the people on the necessity of Fire Prevention is to bring to their minds in language which is most resolute and even terrifying, the dangers which threaten them. It is hard to realize, when reading newspaper reports of some great conflagration, quite what it all means; it seems so far away, entirely remote, it is passed over and forgotten. Suddenly there comes a day when the fire menace appears in all its lurid horror; then the lack of knowledge of the means of fire prevention makes itself manifest, and the total lack of life saving apparatus is then taken up — too late to save the hundreds of souls which have perished in the flames.

Fire Prevention or Preventive measures against fire directly bears upon the causes which must be divided into "Hazards." This term probably expresses the meaning better than any other word in the English vocabulary. The "Hazards" can be said to be divided into the ordinary hazard, the special hazard, incendiarism, and the hazard caused by carelessness; it also would embrace the educational features and building laws, with other regulations which deal with preventive measures.

In considering construction, one must not confound fire resisting

with non-combustible material. Fire resisting construction must first be properly planned or designed along the lines above mentioned, which in itself will constitute fire protective features of importance which should be found in public buildings, theatres, schools, etc. To be really fire resisting, no building can be considered such, unless backed up with auxiliary or automatic fire-fighting equipment; without this, fire resisting qualities of any construction must be considered questionable.

The causes of fire are too many to enumerate. This would include at least thirty common causes which are generally ascribed in accounts of fires throughout the United States, yet does not cover the hundreds of unknown causes from which fires originate. The last mentioned would be considered as common hazards; the first mentioned under the head of special hazard, which would include fire dangers from lightning, fireworks, explosives, petroleum, gasoline, etc.

A campaign of education along these lines should be instituted in every factory and public building, theatre, or places where people live or congregate. Publicity through the State and National Press Association, also by lectures, by speakers, and by timely news articles pertaining to Fire Prevention and Fire Protection should be spread broadcast throughout the country. The theory and practice of Fire Prevention must be recognized as a scientific study. This might be indicated by a special course of instruction on these subjects which is offered by one of the celebrated schools in Chicago, another in St. Louis, and several other schools throughout the United States. This particular subject, however, is yet in its infancy. The curriculum should include the fundamental subjects, such as mathematics, physics, electricity, and applied mechanics, which must be necessary as a foundation for any engineering training. Particular attention should be given also to general construction, architectural designing, industrial and engineering chemistry. These educational features, if carried to the proficiency with which other subjects are handled, should result beneficially to coming generations.

I would suggest that the Board of Education in every school should improvise text books, which would result in instructions being given to the children of our public schools of the dangers

arising from what may apparently seem to be trifling carelessness, and yet may be productive of great loss. If the warning against fire-causing carelessness is properly disseminated among the children of our public schools there is no question but that it would have a lasting effect upon their impressionable minds, and would not only be beneficial in their early days but in the future.

It has been shown that the annual loss per capita in the United States is seven and one-half times as much as that in European countries; in other words, the loss per capita in the United States is \$2.51, in Europe \$0.33. The difference is due to the fact that in Europe there is better construction, less carelessness, and increased responsibility, and better education on the subject of fire prevention. Fire prevention is taught throughout all the public schools in Europe. They are taught to look askance at the person or corporation having loss by fire. The result is, that the person having a fire in Europe is looked upon as a criminal possibility. In some countries he is immediately investigated, in others he is made to pay the cost of the extinguishment of the fire and the expense of the fire department's turning out. We must therefore change the attitude of the people of the United States toward the man who has a fire, and not make him an object of pity but rather place him in the position of a man who has offended against the common welfare by placing in jeopardy the lives and property of his neighbors.

The appalling loss of life that occurs in this country each year by reason of fire is brought about by the interior stairways being cut off by either smoke or flame and in hundreds of cases just about the time of the discovery of the fire, and, with no means of escape, they are trapped and, consequently, in many cases, lost.

The subject of the means and adequacy of escape from buildings is then one that should be given careful consideration. Interior stairways we do not in any way recommend as a means of escape at the time of fire. We strongly recommend in connection with fire escapes that the tower fire escape shall be erected where practicable; that exits should be provided to an iron balcony outside of the building and that an entrance be provided from said balcony to fire escape tower.

The State Fire Marshal Department has a specification for an exterior fire escape which we recommend on buildings where it is

not practicable to erect an outside tower escape and which, when in position, will reach entirely to the ground.

First, then, we must construct our buildings of fire resisting materials, not "fireproof" so called. As this latter term is rather an exaggerated one, we have not yet attained that ideal condition in construction. Fire-resisting materials should then be employed for the essential construction of our buildings, and practical knowledge involving the choice of same should include knowledge of their ability to withstand severe tests by fire or water. Naturally the matter of cost of reconstruction after fire, and other methods of use, should be considered in their selection. It is fortunate that, by reason of accurate data and statistics of former severe and disastrous conflagrations we are able to deduce from the accounts much needed lessons in practical experience on construction and the possible dangers arising from the action of fire on materials used in the construction of buildings. It is my experience that no matter how you apply the scientific knowledge derived from a theoretical study of Fire Prevention and Fire Protection, the real and hard lessons are learned by practical experience and more benefit thus derived.

We will now assume that the building is fitted with proper exterior fire escapes, with drop-balance stairways which will allow the inmates full egress to the ground; that the windows which the fire escape will pass are glazed with proper wire-glass, and that the doors swinging out on the balconies of the fire escapes are fireproof doors and open outward.

We will assume that the building is now completed with fire resisting windows, shutters and doors from the exterior standpoint.

We must first then consider the protection of human life within the building, and in this connection we recommend the installation of automatic fire alarm systems in all buildings of two stories and over in height where numbers of people may work or congregate from time to time for any purpose whatsoever. I speak particularly of factories, schools, theatres, hotels and department stores. Next, we require a perfected system of fire drills in all these institutions which shall be had at least once a month in factories, but oftener if in the opinion of the Fire Marshal it is needed. Also occasional drills with auxiliary fire protecting ap-

paratus by specially designated employees of the different institutions who can be regularly instructed in the maintenance and proper use of fire extinguishing appliances; in other words, this body of men will form themselves into a so-called fire department for this special building. In this connection we heartily approve of auxiliary fire alarm systems which will be connected to the main fire station in the city or town in which the building may be located whereby actual call service may be had.

We must next install our Supervised Sprinkler System, the piping for which must be sufficient capacity and under sufficient water pressure at all times to effectually operate and extinguish any fire which may occur in the building. Unfortunately the idea has been too prevalent that the sprinkler system is intended for use only in buildings of wood or mill construction. This is an erroneous idea. The sprinkler system is just as effective and as much needed in buildings of so-called fire-resisting construction. The sprinkler system is becoming more and more generally recognized as the most perfect form of automatic fire protection which has yet been discovered. To make this system entirely effective it must be supervised, and in this connection watchmen would naturally be employed within the building, which is again a preventive.

A proper and efficient Standpipe equipment should be installed and maintained in the buildings the height of which will warrant such equipment. Great care should be taken in the installation of the same, as in many cases its construction is in conformity with local building laws or some regulation of the fire department rather than to provide and maintain suitable and adequate fire protection which will do effective work at the time a fire breaks out in the building. This equipment should be also supervised and promptly inspected and maintained with sufficient hose to cover the area of the floor space and to reach all parts of the buildings. It is a means of saving valuable property, and life itself, by immediate use, whereas the local fire department might consume so many minutes before proper hose can be stretched and the stream turned on.

We do not recommend exterior standpipes and ladders combined, which the building laws of many cities require. This, of

course, would require what is known as a dry standpipe, of which we do not approve except in portions where a filled standpipe is impracticable. Standpipes must be considered as a "First Aid" and oftentimes great reliance is placed on the protection afforded by the installation of standpipes with sufficient rubber-lined hose to cover the area of the building. These standpipes can be handled by the inmates being properly organized, until the arrival of the municipal fire department.

Standpipes have been the means of saving thousands of dollars in property and untold lives. They should be connected with a sufficiently large main, so that a pressure of forty pounds can be secured on the top story of a building. With the fire alarm in the building the local department is at once summoned, but this necessarily consumes some minutes before they reach the scene of the fire. In the meantime, a building having no protection is rapidly being consumed; whereas, with a standpipe system fully equipped and installed, it remains for only a few level-headed persons to detach the horsepipe from the wall, open the valves, and at once the fire is under control..

Oftentimes too much reliance is placed upon the protection afforded by the municipal fire department service, and no attempt is made to install proper auxiliary fire-fighting system in the buildings in the municipalities in which such service is had. No matter how efficient a fire department may be, time must be consumed in passing from the fire stations to the scene of the fire. In this connection fire pails and water casks filled with water can not be too highly recommended. Fire tests with pails of water have proved that the ordinary bucket of water and the hand pump have a very high average of fire-fighting efficiency at the outbreak of the fire. Then again, the chemical fire extinguisher when properly maintained and charged is very effective and can be readily and easily handled even by persons not conversant with their action or peculiarities. This, of course, has also its advantage. The small hose allows of extinguishment of inaccessible fires in hidden places between floors and ceilings, etc.; also closed places, where a fire pail would not be effective.

Fire resisting partitions, iron doors and fire doors into adjoining buildings all may be said to be effective in fire prevention.

Recent laws enacted in New York State prohibit smoking in factories and will aid largely in the decrease of fires therein; also laws covering the removal of inflammable material in and around buildings reduce materially the fire risk in each case. Burned property does not replace itself; you can not restore it by fire insurance. The most effective fire prevention must be the removal of the causes of same. In this connection I might mention the lack of cleanliness, smoking, careless use of matches, defective electric wiring, defective chimneys, explosions, carelessness, wooden construction, unprotected window openings, combustible roofs, etc. With the causes mentioned properly taken up fire prevention would practically be an easy proposition.

Investigations of incendiary fires have saved thousands of dollars and has had a deterring effect on the commission of crimes of a similar nature.

We are recommending in New York State an economical standard which shall be established with reference to fire equipment and proper apparatus in the municipalities below which these municipalities should not be permitted to fall, however much they might exceed it on account of better financial conditions. No village or town should be incorporated without proper fire protection. We can recommend in this connection that all hose couplings shall be standardized by law so that there may not be a repetition of the recent fire in a large town in New York where the neighboring firemen could be of no assistance because their hose could not be coupled to the hydrants and no reducers were available.

We are strongly in favor of motorizing local and municipal fire departments by the adoption of motor traction throughout the State.

The fire hazard is increased largely by the use of gasoline. It is far more dangerous than gunpowder or dynamite. With such an ever present risk it might be imagined that great precaution would be exercised in its use. Such is not the case however. The most careless people in the world are chauffeurs and employees of garages.

So much can be said in favor of fire prevention that it is impossible to cover the question fully.

UNIFORM STATE FIRE MARSHAL LAWS.

After a careful study of many of the laws relating to the Department of State Fire Marshal throughout the different States of the Union, I am of the opinion that uniform laws should be enacted whereby the supervision and control of the protection and inspection of all premises as regards fire preventive measures should be vested in the State Fire Marshal as in most all of the States the causes of fire are materially the same.

The insurance laws differ in many of the States and from which the laws of the State Fire Marshal are more or less enacted.

In twenty-eight States of the Union there are now in force and operative laws governing the Department of State Fire Marshal.

While in New York State the Department is comparatively young, having been organized under an act of the Insurance Law of 1911, excellent work has been done by the Department and remarkable results have been obtained, as is evidenced by the Second Annual Report of the Department of State Fire Marshal.

The uniformity of the State Fire Marshal Laws is a subject which is heartily endorsed and commended by all the authorities on fire prevention and fire protection, at least in the eastern part of the United States. The possibilities of national laws to be enacted is not so remote as one might think, and the important matters of fire prevention and protection are being widely discussed throughout the United States and the tremendous loss by fire peril is so appalling that this subject is receiving serious consideration in all parts of the country.

The fire losses and cost of fire prevention in the United States amount annually to \$480,000,000, or more than the total American production of gold, silver, copper and petroleum each year. The loss by fire each year is one-half the cost of all the new buildings erected in a year. It amounts to \$430,000 per hour, \$500 per minute, or the equivalent of a \$5,000 home destroyed every ten minutes.

The world's history has a frightful number of conflagrations in its pages. Nero in A. D. 65 burned down one-half of Rome. Constantinople has had eleven great fires and more than 130,000 houses were burned. In Japan fires are frequent on account of the bamboo and paper construction of houses. In September, 1666,

London was destroyed, 1,000 houses burning at once, covering 430 acres. On October 9, 1871, fires killed 200 in Chicago, 17,459 buildings were destroyed and 98,500 persons rendered homeless. In November, 1872, Boston was devastated by fire, 800 buildings being destroyed and property lost to the value of \$73,000,000. In April, 1906, San Francisco was burned over. The fire was three times greater than Chicago, ten times greater than Boston, \$300,000,000 were lost, and 300,000 persons made homeless. In 1904 a Baltimore fire covered 140 acres and destroyed \$85,000,000 worth of property. In October, 1910, forest fires alone cost \$14,600,000, while in the whole country they cost us \$50,000,000 annually. The single item of careless handling of pipes, cigars and cigarettes costs our people \$10,000,000 each year.

It was apparent years ago that the State would have to step in and take up the question under discussion in the interests of the people. In 1886 Massachusetts created a Fire Marshal for the City of Boston. In 1894 the State Fire Marshal was created for the Commonwealth of Massachusetts. Other States have fallen in line with the above State, with the result that there are now in existence twenty-eight departments of this nature in the United States, which shows that our government is keenly alive to the necessities vital to our people.

I desire to thank the Association for your attention and consideration and extend to you all a hearty invitation to visit my Department at the Capitol in Albany.

DEPARTMENT OF STATE FIRE MARSHAL,

ALBANY, N. Y., August 7, 1913.

HON. WM. SULZER, *Governor, Executive Chamber, Albany, N. Y.*

DEAR SIR.—In compliance with your request at our recent interview with reference to the Department of State Fire Marshal and its needs, I beg leave to submit to you the following considerations.

I earnestly appeal to you to give them early attention. The importance of the work involved warrants it, and recent large fires in our State, particularly the terrible calamity at Binghamton, would seem to make it absolutely necessary.

The Department of the State Fire Marshal was organized in July, 1911, and was the direct result of the Merritt Investigating Committee of the Legislature of that year.

Its work is steadily on the increase. Each day augments the subject matters of its activity, and new situations are continually arising to which the capacity of the Department must be adapted. In fact, the laborers of the Department and the volume of business have increased at least six fold since its organization.

I am daily in receipt of many communications from every part of the State asking for advice as to fire hazards and begging the intervention of the Department for such purposes. There is a very marked increase in requests from all over the State for investigations into suspicious fires, as knowledge of the powers of the Department in that and many other respects has largely gained ground through the campaign of education conducted by deputies and engineers who have attended meetings of chambers of commerce, credit men's associations and firemen's conventions in every part of the State in their endeavor to enlighten these bodies with reference to the State Fire Marshal Law. These requests come not merely from citizens nor from my immediate assistants, but from insurance, mercantile and industrial interests as well.

It is idle to think that the situation can be met by an inadequate force. No right thinking man would subscribe to such a view and the great body of citizens will not begrudge the reasonable ex-

penditure of money, whatever the amount may be, for the most laudable purpose of the saving of human life and the reduction of the vast fire waste in the State.

Last year fires outside of Greater New York damaged or destroyed 4,317 dwellings, 984 barns, 827 stores and dwellings, 493 offices and dwellings, 377 factories and mills, 239 hotels. There were 12,835 fires with a total loss of \$12,850,954, making an average loss of \$1,000 per fire.

I wish to adjust the Department in a manner most effectively to cope with such condition of affairs.

It is an absolute and imperative necessity that I be given additional help, and, unless that be done, I protest most earnestly against any attempt in any quarter to hold me or my Department responsible for disastrous consequences.

I have but twelve general inspectors and five boiler inspectors outside of a small force of office help with which to cover fifty-nine counties in the State. The gross injustice of any attempt to make me or my Department responsible for alleged non-execution of the laws is therefore apparent and must be admitted by every fair-minded man.

I had requested the former Civil Service Commission for authority to make appointments for different positions and such authority has not been granted to me. Furthermore, the appropriations for my Department made by the Legislature were not approved. So, for instance, the new Boiler Law, enacted by the Legislature of 1913, and which largely increases the work of boiler inspection, was approved, but the appropriation necessary to carry it into effect was not granted and in consequence the boiler inspection bureau of my Department, unless relief is awarded at the special session of the Legislature, will go out of existence October first next.

It is appalling to contemplate the possibilities of an abandonment of boiler inspection in the loss of life and property in view of the thousands of boilers in this State in need of thorough inspection.

When my Department was organized I had but nine inspectors and now have twelve, an increase of only three. Only five boiler inspectors are now in the Department.

Upon its organization I had two stenographers and now have three, an increase of only one. I began with two office assistants and have the same number now although the work has so vastly increased.

I have given these matters, I assure you, very earnest and conscientious attention. I consider it necessary that I should be empowered to establish in my Department the following:

1. A legal bureau to have charge of legal matters and questions of all kinds that arise daily. The records of the Department in its files could be more readily handled here than by an assistant designated in his office by the Attorney-General. Likewise the investigation of incendiary fires. These are on the increase in our State. The crusade against arson in New York has driven firebugs into the rest of the State. I have no force specially charged with their investigation and must make use even for this purpose of my inspectors who should be in the field for regular fire inspection work. In New York city there exists a fire marshal bureau with every facility to ferret out the crime. Men are on duty day and night and are conveyed to a fire as soon as the alarm comes in. In addition there is a special arson bureau in the office of the district attorney with its own staff. Even so, investigations by this Department of incendiary fires have undoubtedly saved thousands of dollars and have had a deterring effect on the commission of the crime. I should have a special force in the nature of a secret service of at least four men trained in detective work and ready at a moment's notice to go out into the State and unearh the firebug. Furthermore, there are now in this office in the neighborhood of 1,500 violation orders which could then be enforced by legal proceedings and the collection of the penalty of fifty dollars a day under the statute would result in a large revenue to the State, which would go very far, with the other items enumerated later on, towards the support of the Department financially.

2. There should be a bureau of explosives. There are now over \$3,500 to the credit of this bureau in fees collected for magazines even with the small force at my command. At least \$40,000 could be collected a year in these fees if I had a sufficient number of inspectors for this purpose alone. At present I must take them from their other work.

I wish also to place in this bureau the details of the enforcement of chapter 303, Laws of 1913, which gives me the power to formulate rules and regulations for the safe storage and transportation of gasoline, kerosene, naphtha and other dangerous and inflammable oils. These subjects are now without direct supervision in this State.

3. A bureau of engineering. I have at present a chief engineer who is unable alone to cope with the vast increase in the work of the examination of plans of buildings, fire escapes and the like. He should have an assistant in order that the time and money of citizens and contractors in building operations should not be wasted and that the safety of life and property should be conserved as rapidly as possible.

4. A bureau of boiler inspection. As stated I now have five boiler inspectors for the entire State. Yet the revenue for the few months of the establishment of this inspection has amounted to over \$4,200. This would largely be increased by an augmented force. As shown above the new Boiler Law was approved but the appropriation made for its execution was denied. After October first there will be no boiler inspection in this State. (Since restored.)

5. A general inspection bureau to have charge of the field work of the Department.

Two statutes enacted by the last Legislature, chapter 204 and chapter 520, will enormously increase the labors of the Department. They are both of the utmost importance. The former gives me power to inquire into the adequacy and sufficiency of water supply and fire apparatus and their inspection for fire fighting purposes. Under this I should be empowered to appoint men qualified for the work to examine into these questions in different parts of the State. The latter provides for increased inspections throughout the State to discover fire hazardous conditions. These inspections would result in the making of thousands of violation orders and, of course, augment the labors of the Department.

My Department requires a chief boiler inspector, inspector of fire appliances, advisory engineer, examiner of plans and specifications, electrical engineer, two supervising inspectors, which

have been allowed, but the appropriation denied, also five magazine inspectors, an assistant cashier to aid in handling the work in connection with said license fees, four confidential investigators especially for investigations into incendiary fires in the nature of a secret service, a correspondence and index clerk, five violation inspectors and a confidential clerk of investigations. With such a force the Department would yield greatly enhanced benefits to the State. The financial conditions would improve in every direction, in the matter of boiler and magazine fees alone. Then too, the saving in the loss of property through successful investigation and prosecution as to incendiary fires would be enormous.

There is, however, a phase of the situation which may well appall every citizen of the State. I refer to the public institutions in charge of the hospitals, charities and prison commissions.

They are in a deplorable and most dangerous condition from a fire point of view.

My records show their inspection by my inspectors and defects and I have repeatedly called attention to their condition.

Those in charge concede the facts but state that they applied for appropriations and have not been granted them. I call attention to this condition of affairs in order that should a disaster occur, the blame would not be laid to the doors of this Department.

The injustice done to this Department in refusing it necessary help and appropriations is most marked by way of comparison. The Labor Department has 83 inspectors, 10 mercantile inspectors, 11 special investigators, 10 special agents, 8 supervising inspectors, 2 confidential agents, a medical investigator, an assistant mediator and a large office force in keeping with the work turned out by such a staff. Yet they only cover factories while this Department must inspect asylums, hospitals, schools, churches, halls, theatres, amphitheatres and all other places in which numbers of persons work, live, or congregate from time to time for any purpose and the institution and supervision of fire drills in such premises.

I have several times addressed the Civil Service Commission in the premises. I had also addressed the New York State Factory Commission when legislation affecting this Department was under consideration.

I had called attention to the frequent and constant conflict of jurisdiction between different departments with relation to fire prevention and protection.

On November 26, 1912, I had shown that I had established specifications on all fire fighting appliances with careful reference to proper fire escapes and that better and more effective results would be obtained by placing under the direction of this Department all matters relating to the better protection of buildings including factories throughout the State. I submit that it is neither just nor equitable that a portion of the jurisdiction should be centered in the Commissioner of Labor to the exclusion of the State Fire Marshal. The situation as to fire escapes on factories, attention to which is called more particularly on account of the Binghamton fire, is emphasized by the fact that on June 7, 1912, the Attorney-General had held that the State Fire Marshal has no control over fire escapes on factories which are left in charge of the Labor Department. The fire escape in the Binghamton fire was approved by an inspector of that Department while the testimony showed that they were inadequate, and Assistant Chief Eldridge of the Binghamton Fire Department testified that he never would have approved them as he did not consider them adequate. In my brief to the Factory Commission I repeatedly called attention to misplacement of authority in different parts of the law.

This conflict of jurisdiction should be obviated and in that manner there could be likewise greater economy of administration without any sacrifice of the public interests.

I again revert to the fact that as a slight measure of immediate relief, I have advocated, since the Binghamton fire, the appointment of thirty inspectors for a period of three months.

In conclusion I again acknowledge your valuable aid to this Department in your approval of twelve bills of the last Legislature affecting the State Fire Marshal and am encouraged thereby to hope that my present appeal will be favorably heard by you.

I have the honor to remain,

Respectfully yours,

THOMAS J. AHEARN,
State Fire Marshal.

To the Legislators of the State of New York:

**WHAT THE DEPARTMENT OF STATE FIRE
MARSHAL HAS ACCOMPLISHED**

ALBANY, N. Y., *February* 16, 1914.

The Department of State Fire Marshal was created by act of the Legislature and became a law on the 26th day of June, 1911, with the approval of His Excellency the Governor, John A. Dix. This Department was recommended originally as a result of the report of the Joint Committee of Senate and Assembly appointed to investigate corrupt practices in connection with legislation, and the affairs of insurance companies, and which report was transmitted to the Legislature, February 1, 1911, and known as the Merritt Committee.

We quote from this report, page 129 :

“ STATE FIRE MARSHAL LAW

Your Committee believes that at the root of the whole question of fire insurance is the consideration of fire prevention and that all means possible should be taken by the State to prevent fire waste. Therefore, it recommends the enactment of a State Fire Marshal Law to the end that better conditions may prevail. Such a statute has been prepared and it has been the aim of your Committee to embody therein the strongest points of similar laws of other states, as well as such additional suggestions which seemed of value as have been made in the course of the inquiry.”

Also embodied in this report is the law governing this Department.

On March 25, 1911, occurred the Triangle Shirt Waist Factory fire, which was investigated by the Factory Investigating Committee, known as the “ Wagner-Smith ” Investigating Committee, and immediately thereafter this Committee recommended the immediate passage of a bill creating the Department of State Fire Marshal, this bill being subsequently introduced and passed and known as the “ Hoey-Sullivan ” bill.

It is obvious then that in the original enactment of this law, the creation of the Department of State Fire Marshal was for purposes as designated under section 351 as follows:

1. The prevention of fires.
2. The storage, sale or use of combustibles and explosives.
3. The installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment.
4. The inspection of steam boilers.
5. The construction, maintenance and regulation of fire escapes.
6. The means and adequacy of exit, in case of fire, from factories, asylums, hospitals, churches, schools, halls, theatres, amphitheatres, and all other places in which numbers of persons work, live, or congregate from time to time for any purpose and the institution and supervision of fire drills in such premises.
7. The suppression of arson and investigations of the cause, origin and circumstances of fires and explosions.
8. The adequacy and sufficiency of water supply and fire apparatus and their inspection for fire fighting purposes. (As amended by chapter 204, Laws 1913.)

You will notice that under subdivision 6 it was clearly the intent of the Legislature to place *factories* under the supervision of the State Fire Marshal as regarding the installation of fire fighting apparatus and means and adequacy of escape, the word *factories* being mentioned first in this article.

In the enactment of this law and to avoid confliction of jurisdiction this clause should have been inserted "all acts or parts of acts inconsistent with this act are hereby repealed," but I desire to call your attention to the fact that in other Departments where so-called confliction of jurisdiction occurs with that of the State Fire Marshal the law does not place the responsibility on any one in particular to compel the enforcement thereof. In "overlapping" the so-called "authority" with other departments. we have succeeded in working in complete harmony with this department although we have taken the initiative in each case and are willing to assume all responsibility where our inspection and supervision have taken place. We do not, however, wish to assume responsibility where a division of authority is inevitable.

An investigation of our inspection in these cases will disclose the fact that while the other departments are charged generally with the enforcement of certain laws, no specific reference is made to the subject of Fire Prevention and Fire Protection. An in-

spection discloses the fact that up to the time of the creation of the Department of State Fire Marshal, no efficient nor practical attention, inspection or protection was given by this Department along these lines, and in a majority of cases there were human lives at stake. We insist, however, that inspection by our trained corps of inspectors is far superior to that of inspectors of a general nature.

We contend that if conffiction is the result, the laws should be so amended that this important department in the State service should be given jurisdiction which is clear and concise, and clearly defines the authority and duties and enforcement in each case.

At the present time one department prescribes the manner and adequacy of carrying out the law, and the Department of State Fire Marshal is charged with the enforcement thereof. This is clearly not our fault but that of the Legislators who passed the amendment.

There are thirty-three States in the Union with a Department of State Fire Marshal with power to enforce Fire Prevention Laws, investigate and prosecute cases of arson or criminal carelessness in the starting and spreading of fires, ascertaining causes and by rigid enforcement of said laws, and an education of the people at large to the need of care and forethought in the protection of property. It must necessarily follow that a Conservation of the Utilized Resources of the State would result. This has been the policy of the Department of State Fire Marshal since its inception and to abandon this important department would mean a step backward in Fire Prevention and relegate this work in the Empire State to the authorities of Municipal Government. We have found that "everybody's business is nobody's business." A department of State with powers vested can obtain results whereas we have on record instances of Fire Prevention Laws in Municipalities very lax and with only a partial enforcement. Local interests are too closely allied in municipal government and thorough enforcement of these laws seem impossible.

Under section 351 this Department is charged with the enforcement of local laws and ordinances. We have discovered that a great majority of second and third class cities and larger size

have very lax ordinances in regard to Fire Prevention and Fire Protection, and many have none at all.

In a recent opinion of the Attorney-General we may not only enforce Home Rule but may go further and prescribe rules and regulations for better protection against fire and loss of life.

After the organization of this Department, upon inspection we discovered that *few if any schools* were holding proper fire drills. We therefore began an enforcement of this rule and furnished all public and parochial schools with rules and regulations for conducting fire drills.

Upon inspection we discovered that fire drills were not being held regularly in *factories* and thereupon began an enforcement of these laws and provided each factory with a set of rules and regulations for the conducting of fire drills in their building.

We have provided means whereby factory employees may enjoy their noon-day smoke without violating the "No-Smoking" Law in Factories.

We have required the demolition of delapidated and unsightly buildings in cities and towns where said buildings were considered a fire hazard and menace.

We have inspected and numbered over 30,000 boilers in the State of New York this year carrying over ten pounds' pressure and which are not covered by the casualty insurance companies, thus protecting the property and lives in the immediate vicinity.

We have insisted upon:

First—Action by all cities and towns in adopting proper building codes, which will call for improved conditions and the use of fire resisting construction in congested districts.

Second—Action by the proper authorities in requiring the introduction of automatic fire extinguishing apparatus in all commercial establishments and city blocks.

Third—Action by theatre and moving picture concerns in the installation of proper fire fighting apparatus and proper exits and location of these places of amusement in regard to physical conditions and occupancy.

Fourth—Action by towns and cities in the installation of proper fire fighting equipment for local fire departments.

Fifth—Action by proper authorities in providing adequate water supply for cities and towns, the size of mains, pressure, test, etc.

Sixth—Action by proper authorities in the immediate investigation of incendiary fires, the detection of the firebug and the conviction of same.

Seventh—Action by those in authority to the end that all buildings where people congregate such as schools, theatres, factories, hotels, apartment houses or assembly halls shall be so constructed and equipped that the lives of the people within may be safeguarded.

Eighth—Action by the manufacturers and handlers of high explosives in the storage, transportation and use of same so that explosions and oftentimes fire and loss of life may not occur.

Ninth—Action by manufacturers, dealers and consumers of highly inflammable and volatile oils, such as gasoline, naphtha, etc., the storage and handling of same so that unnecessary explosions and loss of life and property may be lessened thereby.

Tenth—Action by the public in bringing about a safe and sane celebration of Independence Day.

Eleventh—Action by the public in establishing a Fire Prevention Day whereby a general cleanup of rubbish and inflammable conditions and inspection of same will result, thus lessening the fire hazard.

Twelfth—Action by every citizen of the State in using his individual effort in the cause of educating the public in regard to the dangers from fire not only in so far applicable to personal consideration but also from its broader standpoint, the "Conservation and Welfare of our Natural and Material Resources."

It seems ridiculous that our people so apt and eager to seek out and destroy the mysterious and hidden enemies of mankind should be so slow in fighting a foe so plainly in sight and so readily vanquished.

We are leading the world in stamping out the causes of pestilence and removing them. We are actually in the vanguard of

battle against tuberculosis, typhoid fever and other pestilences and still we stand apart and let older nations *lead* the fight against an enemy more easily conquered. Is it any wonder the average loss per capita in Europe is \$0.33 while that of the United States is \$2.51?

This Department has worked faithfully and conscientiously to arouse the people of the State against the rapidly increasing fire losses and to educate them along lines of fire Prevention and Protection.

Organized methods must be adopted for bringing the significance of the fire waste before every person in the State. It may be said that every worthy cause ever promulgated or advanced has received from various sources and for various reasons its objections, its opposition and we are not surprised under existing conditions that opposition has been aroused to the Department of State Fire Marshal. We are pleased that this opposition has come if it will in any way arouse in the education of the Legislators or of the people of the State of New York as to the value and good of such a department.

We take exception, however, to the fact that the bill for the abolition of this Department was reported out of committee favorably without an opportunity or a request to be heard in our own behalf. We doubt that few, if any, really know what good work this Department has been doing or of what this Department consists.

We quote from a leading newspaper a statement by one of the prominent legislators:

“ The bills merely were introduced to prove to our political adversaries that we had no desire to maintain the departments legally, but to refuse them financial support, so that we might fill the positions with Republicans when the Democrats vacated.”

Must it be said of this administration that from a mere political animus that one of the most important departments in the State service should be abolished?

The assistants to the State Fire Marshal being chiefs of various fire departments, town clerks and mayors of unincorporated vil-

lages number over 1,700. Back of the chiefs of the different fire departments, who are legally constituted assistants to the State Fire Marshal, are the volunteer firemen of New York State numbering 250,000 and from whom we have received many letters of indorsement and commendation.

Chambers of commerce, boards of councilmen, trustees, boards of trade, credit men's associations, manufacturers, civic bodies of every description are taking up the subject of fire prevention and protection but they develop few if any results and from our observation there must be a department of State vested with the powers thereof before results of this nature can be accomplished.

I submit, however, the policy of such a department must be most conservative, and the powers thereof used with every discretion. It must be admitted, however, that a cursory examination and partial protection such as many people *desire* would be only a reflection on the part of the Department. Our examinations and inspections therefore have been most detailed and always mindful of the appalling loss of human life in the State and with a regard for the preservation of life.

The holocausts of recent years seem unnecessary if some department like that of the State Fire Marshal were charged with special jurisdiction and the enforcement of fire prevention laws in all places where any number of people live or congregate for any purpose whatsoever.

With reference to the opposition to the Department of State Fire Marshal, no good reason can be assigned for its abolishment. Our statistics show, in the many towns we have covered and properly protected the fire hazards, a considerable reduction in the number of fires and consequently the loss suffered thereby. We can show where undoubtedly many lives have been saved by access to the fire escapes which have been placed on buildings by this Department. We do not recognize interior stairways as a means of escape. We consider that only outside fire escapes, with stairways to the ground, are adequate and proper.

Hearsay evidence is not permissible in a court of competent jurisdiction, and should have no weight in the conservative minds of legislators of the State of New York. We are not unmindful of the welfare of the people. On the contrary, every rule made

by the State Fire Marshal, every requirement placed on the public, is in the interest of the people.

This Department is only in its infancy, being in existence less than three years, the first year of which was practically given over to organization. The past two years have been productive of splendid results, and we have received many letters of commendation from prominent people throughout New York State for our efficient and careful work. We have also the support and commendation of the State Fire Underwriters, and the National Fire Protective Association of America.

At the Conservation Congress and meeting of the fire marshals of North America, held in Philadelphia in October last, representative civic bodies were present from many States in the Union in which there is no department of State fire marshal, and after the meeting, which consumed the entire week, these committees carried back with them a complete and enthusiastic report which recommended to their several Governors the immediate creation of a department of State fire marshal.

The books of this Department show a record of 16,905 fires occurring within the State outside of Greater New York up to January 1, 1914, and 12,955 fires in Greater New York, a total of 29,860 in the State.

Our records include the character of the property destroyed, the cause of fire, the amount of insurance carried, and the damage.

Our inspections of boilers disclose defective conditions, in which case the boilers are condemned; where the inspection is passed, a plant number is assigned, and a record of the boiler or boilers is kept within this Department. We inspected 9,144 locations where boilers were in operation last year, such locations containing approximately 30,000 boilers.

Through the officers of this Department there were 93 arrests last year for arson, against 46 for the year 1912; and 25 convictions in 1913 as against 19 in 1912. We are advocating different amendments to the law this year, and attention is called to the suggestions from this Department to His Excellency, Martin H. Glynn, in a recent communication, dated December 24, 1913.

This Department made 12,254 inspections of property in 1913,

and 7,795 violation orders were complied with. There were 212 public buildings inspected, among them being hospitals, public schools, and asylums. There were also 267 investigations made by this Department into incendiary fires. The recent amendment to the State Fire Marshal Law giving jurisdiction over the adequacy of water supply and fire fighting apparatus in cities and towns have materially assisted the equipment of many of the larger towns of the State, thereby bettering the conditions throughout the State.

We are also pleased to note that we have bettered the defective conditions of water supply in many of the smaller towns of the State. We have discovered that there are at least 45 communities in the State of New York in which the water supply and fire fighting apparatus are so defective that there has been much damage to property by fire as a result of such condition. We are therefore recommending a proper water supply and equipment for these communities. If the Legislature would appropriate sufficient money whereby this Department could employ an increased number of professional explosive and combustible inspectors and boiler inspectors, the income from inspection of boilers and from licenses for magazines would be increased, in the former case to at least \$20,000 and in the latter from \$35,000 to \$40,000, thus making the Department almost self-sustaining. The insufficient force of inspectors has realized only the following sums:

For inspection of boilers.....	\$6,515 00
For licenses for explosive magazines.....	6,875 00

In Greater New York the Fire Prevention Bureau has a complement of 150 men, 70 of whom compose the field force. In 1913 there was an appropriation made for this Bureau of \$270,000; for 1914 the appropriation is \$272,000.

In Greater New York the Tenement House Department numbers 250 men for inspections against fire hazards, etc. The opposition to these different appropriations in New York City has come practically from the same source as the opposition to the State Fire Marshal Department, up-State. This opposition is composed of property holders who have poorly constructed, unsafe

and unsanitary buildings, such as tenement houses, factories, amusement and assembly halls, who object to reconstructing and housing the people therein with a view to safe-guarding their lives against the fire peril. Another source of opposition are the proprietors of the thousands of summer hotels which are poorly constructed and which have received the inspection of our representatives, and as a result proper inside fire fighting appliances have been insisted upon and outside fire escapes have been erected on these buildings. We admit that it is some expense, but this expense is justified and the public generally are safeguarded against the fire peril. Recent conflagrations in summer hotels and other buildings where a large number of people have been congregated should impress itself upon the minds of the public and lessons learned therefrom — that FIRE PREVENTION IS FIRE PROTECTION. It will thus be readily seen that the abolition of the Department of State Fire Marshal would result in a poorer construction of buildings and the retaining of unguarded property against fire risks which must ultimately result in a great loss of human life.

The chambers of commerce of Buffalo, Syracuse, Geneva, Credit Men's Association of Syracuse, firemen's conventions at Albany, Rochester, Ithaca, Newburgh, New York State Association of Fire Adjusters at Lake Placid, and several other bodies of representative men interested in the question of fire prevention have heartily indorsed the Department.

Partisanship should not be permitted to endanger life or property by the abolition of such an important department. The passage of the pending bill would be a reprehensible step backward and not in keeping with the progressive spirit of the day.

Since the annual report went to the printers the following has been received from the Firemen's Association, State of New York, dated at Chatham, April 30, 1914, and signed by Sanford W. Smith, president, Firemen's Association, State of New York. We are inserting same for the information of the Volunteer Firemen of the State of New York.

FIREMEN'S ASSOCIATION, STATE OF NEW YORK.

CHATHAM, N. Y., *April 30, 1914.*

DEAR SIR AND BROTHER.—I am enclosing herewith a copy of chapter No. 400, General Municipal Laws of 1914, and I would respectfully ask that you have the kindness to call a special meeting of your company and read the enclosed law to your members.

This law, which is one of the most meritorious and humanitarian measures that has ever been passed, was signed by Governor Glynn, April 17, 1914, providing for payment to injured volunteer firemen and pensions to the families of deceased volunteer firemen where death occurs, or injuries resulting in death, due to personal harm sustained while performing and discharging fire duty.

Every volunteer fire company of this State should unhesitatingly commend Governor Glynn for signing this bill; also the the Fire Marshal of the State of New York, Mr. Thomas J. Ahern, for interest manifested in having the bill passed, and to Senator John F. Healy, who introduced the bill and whose efforts aided in its passage.

The Firemen's Association of the State of New York has for several years been striving to have such a bill passed for the benefit of volunteer firemen, considering that where a man risks his life and his health in defense of property and lives of others that he should receive as much consideration from the broadminded and charitable public as the soldier on the battlefield or the sailor in the navy; therefore it is no more than just that men who are injured or killed while fire-fighting that they or their bereaved families should receive some remuneration.

STATE OF NEW YORK

No. 28.

IN SENATE

FEBRUARY 17, 1914.

Report of the Senate Committee on Banks Relative to Private Banking Business.

To the Senate of the State of New York:

On the 7th day of January, 1914, the following resolution was adopted by the Senate of the State of New York:

“Whereas, It appears that a firm of private bankers in the city of New York has suspended payment having deposits aggregating approximately two and one-half million dollars, with many depositors residents of this State, and no information is obtainable as to whether said private bankers are solvent; and

“Whereas, It appears that the laws of this State at present fail to regulate and supervise said private bankers, they having given security to the State Comptroller in the sum of \$100,000, and by reason of said omission in the law private bankers may transact the banking business without due safeguards to the rights of the public and the depositors; and

“Whereas, The public interests demand appropriate legislation upon this subject, and as the matters involved are complex and important,

Now, Therefore, In order that full and complete information may be obtained as to all the facts relating to the subject and so that the Legislature can take action thereon; be it

Resolved, That the Senate Committee on Banks, one of the standing committees of the Senate, be authorized and directed forthwith to proceed to investigate and examine into the private banking business conducted in this State, the methods employed by private bankers in obtaining deposits and the investment of such deposits received by them; the nature, if any, of the security existing for the investments of said private banks, of their deposits in this State and elsewhere, and all other matters relating to such private bankers, their methods of carrying on business, whether solvent or insolvent, including the laws of this State and of the United States regulating such liquidation, for the purpose of reporting to the Legislature such a revision of the law as may be necessary to remedy conditions; be it further

Resolved, That such committee be authorized to sit during the recess of the Legislature and outside of the city of Albany, and be hereby authorized and empowered to subpoena and enforce the attendance of witnesses, including public officers and employees, and to require production of books and papers and to administer oaths."

Pursuant to such resolution, the Senate Committee on Banks held its first meeting at the aldermanic chamber in the city hall, city of New York, Borough of Manhattan, on the 12th day of January, 1914, and appointed Daniel P. Hays, of the city of New York, its counsel for the purpose of conducting such investigation.

The committee has examined a large number of private bankers in the city of New York concerning the methods employed by them in obtaining deposits, the nature of their business, the manner in which it is conducted and the nature of their investments, and has also made an examination of the laws of this State and of the adjoining States for the purpose of enabling it to recommend to the Legislature such legislation as may be necessary to remedy the evil which it has found to exist with reference to private banking as carried on in this State.

AS TO THE LAWS OF THE STATE OF NEW YORK AFFECTING PRIVATE BANKERS

Under the laws of this State for many years, and until 1910, there was a distinction recognized between what are called "private" bankers and "individual" bankers. The Courts of this

State have uniformly held that the right to engage in private banking was a common law right and in the absence of statutory legislation that any person or firm could conduct such a business in this State in all its branches. An individual banker was one who conducted the business of banking as an individual but complied with the banking laws of the State of New York. Up to the time, therefore, of the passage of chapter 348 of the Laws of 1910, which was amended by chapter 393 of the Laws of 1911, individuals, firms, partnerships and unincorporated associations could carry on the banking business in this State in the same manner as any other business and were not subject to any statutory regulation, corporations carrying on the banking business were regulated by statute and other persons who wished to carry on the banking business without forming a corporation but desired special privileges from the State could do so by complying with the banking laws of the State, and we are informed that there is only one "individual banker" in this State, and were known as "individual bankers." Under chapter 348 of the Laws of 1910 private bankers were required to apply to the comptroller for a license, and certain provisions were enacted with reference to examination by the Comptroller of those making such application. The applicant was further required to deposit with the Comptroller \$5,000, if the applicant was engaged only in the business of receiving money for transmission; otherwise, \$10,000 in moneys or securities, which would consist of bonds of the United States or of this State or any municipality thereof or other bonds approved by the Comptroller, and if a deposit of securities was made in lieu of money, the Comptroller could thereafter require the applicant to maintain such deposit at all times at a value which should equal the sum that the applicant was required to deposit. In addition thereto, the applicant was required to deliver to the Comptroller a bond executed by him and a surety company conditioned upon the faithful holding of all moneys which might be deposited with the applicant in accordance with the terms of the deposit and the repayment of such moneys so deposited and also upon the faithful transmission of any money which should be delivered to the applicant for transmission to another, and, in the event of the insolvency or bankruptcy of the applicant, for the payment of the full amount of such bond to the assignee, receiver or trustee of the applicant, as the case might require. The penalty of this bond was to be \$5,000 if the applicant was only engaged in the business of receiving money for transmission to

another. In all other cases the penalty, if the deposits of the applicant did not exceed \$5,000, was to be \$5,000, and in cases thereof the penalty of such bond was to be increased \$5,000 for each additional \$25,000 of deposits or fraction thereof, not exceeding, however, the maximum penalty of \$50,000. In lieu of the aforesaid bond the applicant might deposit, and the Comptroller was required to accept, money and security of the character above described.

These provisions, however, only applied to cities of the first class. Therefore, certain exceptions contained in this law which destroyed its value in a large measure, the most important of which was that any private banker who would otherwise be required to comply with its requirements, was exempted, provided he filed with the Comptroller a bond in the sum of \$100,000, approved by the Comptroller as to form and sufficiency, where the business was conducted in a city having a population of one million or over, and if conducted in any other city of the first class in the State, in the sum of \$50,000, or in lieu thereof, money or securities approved by the Comptroller in the same amount.

A large number of private bankers availed themselves of this exception and filed with the Comptroller bonds in the sum of \$100,000. They thus became exempt from the operation of the statute, and were thereby enabled to carry on the business of private banking in this State in the same manner as any other business and without any statutory regulation as to investments or otherwise and without any supervision on the part of the Comptroller or Superintendent of Banks.

That the security afforded by this statute was inadequate for the protection of the depositors has been amply illustrated from the facts elicited by your committee in regard to the failure of the private banking firm of Henry Siegel & Co., the facts in regard to which will be hereafter set forth.

It is also apparent from a reading of the statute in question that there was nothing to prevent a private banker from taking the deposits of his customers or the security representing such deposits and either depositing them with the Comptroller as a compliance with the statute or using such deposits or securities for the purpose of indemnifying the surety company which gave the bond.

Your committee has also made some examination of the laws of the States of New Jersey and Massachusetts with reference to private bankers and has ascertained that in the State of New Jersey

by the public laws of 1895, chapter 743, it is made a misdemeanor, punishable by fine not exceeding \$5,000 or by imprisonment at hard labor for a term not exceeding seven years, or both, for any association of individuals, partnership or joint-stock association to engage in the business of banking unless they subject themselves to control, supervision, inspection and examination, to which incorporated banks are by law subject; and the right to engage in such private banking business is restricted to residents and inhabitants of the State.

We also find that the State of Massachusetts by chapter 428 of the acts of 1905, chapter 408 of the acts of 1906, chapter 377 of the acts of 1907, chapter 493 of the acts of 1908 and chapter 338 of the acts of 1910, all persons or partnerships, associations or corporations engaged in the business of selling steamship tickets or railroad tickets for transportation to or from foreign countries or of supplying laborers or to carry on in conjunction with such business the business of receiving deposits of money for safe-keeping or for the purpose of transmission to foreign countries, or for any other purpose, must, before entering or continuing in the business, make, execute and deliver a bond to the treasurer or receiver in such sum as the banking commissioners deem necessary to cover the deposits received for the aforesaid purpose, conditioned upon the faithful holding and repayment of the money deposited as aforesaid, and upon the faithful holding and transmission of any money delivered to them for transmission to a foreign country. An exception is made in the case of banks or trust companies, express companies having contracts with railroad or steamship companies for the operation of express service upon the lines of such companies, and persons, partnerships, corporations or associations engaged in the banking or brokerage business. Persons coming under the provisions of the law are subject to the supervision of the banking commissioner and are required to make reports to him and to keep accurate books of account, and authority given to the banking commissioner to examine them from time to time personally or by competent examiners, and if upon such examination it appears that such person is insolvent or that its capital is impaired or that its condition is such as to render a continuance of the business hazardous to the public or to those having money in its keeping, the banking commissioner is authorized to apply for an injunction to restrain its continuing in business, and the court is authorized to appoint one

or more receivers to take possession of the property. Appended to this report is a copy of such statutes of New Jersey and Massachusetts.

That neither of these laws cover the situation existing in this State will be apparent from the facts hereinafter stated.

As a result of the investigation made by your committee we find that there are various classes of private bankers in this State, principally in the city of New York, and that there is a marked distinction in the nature of the business carried on by them, so that it would be impracticable to apply one law to all of them.

Some bankers do not have any deposit accounts with the general public and do not issue any pass books. Their business is primarily acting as bankers for corporations, purchasing and selling securities and doing for foreign governments what they do for corporations. In a great commercial city like New York such business is of importance and value to the community and does not require any supervision or control on the part of the State.

There is another class of private bankers who do not advertise for deposits or seek to obtain them, but who by reason of financing certain corporations or by reason of having customers for whom they have bought or sold securities, have deposited with them moneys belonging to such corporations and customers and upon such deposits allow interest of from 2 to 3 per cent. Such deposit accounts have an average minimum balance of from \$5,000 to \$10,000, and are not in any sense savings accounts or left with the banker for the purpose of obtaining interest.

The largest of this class conducts a general banking business, consisting of buying and selling foreign exchange, issuing travelers' letters of credit, purchasing and selling issues of railroad bonds and other securities, and in addition the receiving of deposits subject to check of the depositors. The larger portion of their business, however, is the purchase and sale of railroad bonds. The depositors with this firm are for the most part corporations and large institutions and firms here and abroad who come to the bankers voluntarily and offer their business, also wealthy persons who from time to time invest in securities and who have funds over which they leave on deposit with the bankers. Two per cent. interest is allowed on current accounts, and where the account is subject to a notice of withdrawal of thirty days, 3 per cent. is allowed. These bankers have very few accounts that ever run under \$5,000 or \$10,000.

The facts above stated with reference to this class of bankers would seem to indicate that there is no reason for placing them under the supervision of the Banking Department or regulating the conduct of their business.

There is another large class of private bankers, particularly in the city of New York, who advertise for, solicit and receive deposits of the laboring classes who are desirous of saving their money and are induced to make their deposits with such private bankers by the offer of interest varying from 4 to 5 per cent. These bankers, although not allowed by law to use the word "savings" in connection with their business, nevertheless practically conduct their business, so far as the outside public is concerned, in such a manner as to present to them the same features as savings banks; and we find from the testimony taken before your committee that they are largely used as savings banks by a class of laboring people who are endeavoring to save their money.

These private bankers issue pass-books practically in the same manner as savings banks, credit interest on deposits at specified times during the year, some quarterly and some semi-annually, pay out money to the depositors upon production of the pass-book, and the greater amount of money so deposited remains with the banker at all times as in the case of savings banks. A large number of women are among the depositors of such bankers. Fifteen per cent. of these depositors as estimated by a clerk in the banking department of Henry Siegel & Co. did not withdraw their money, but kept it intact and had interest credited upon it. Another class, fixed by the same witness at 55 per cent. drew very small sums from their accounts and kept the major part of their deposits intact.

In the case of Henry Siegel & Co., bankers, deposits as small as \$1 were received, while one account amounted to \$12,000, and was a savings account. A large number of such accounts ran as high as \$3,000 or \$4,000.

It is only fair to state in this connection that your committee examined other private bankers who carry on the private banking business in connection with department stores in the city of New York, and while they ascertained that such private bankers solicited deposits and paid 4 per cent. interest, it appears that money so deposited is kept segregated and is not used in connection with their other business, but is invested in railroad bonds,

municipal bonds, short-term railroad notes, public utility bonds and commercial paper. All of these bankers expressed themselves in favor of supervision by the Superintendent of Banks.

In the case of one department store, a different deposit business is carried on from that of any other. They claim not to be in the business of private banking and have no department in their store in which they conduct such a business. They receive deposits, however, from their customers only, so far as they can restrict it and allow such customers interest at the rate of 4 per cent. A separate department is maintained in the store for this purpose which is known as the "Depositors' Account Department." These deposit accounts are solicited by public announcement, but with the distinct clause that they do not carry on a banking business but solicit deposits only for the purpose of facilitating purchases in the store. The firm does no credit business, but sells goods for cash and they claim to have devised the system in use for the purpose of promoting prepayment for merchandise. They issue no pass-books but give their depositors receipts for the amount of money deposited. The deposit of the money enables the customer to get the goods purchased and have the amount thereof charged against his deposit account and at the end of the year the firm pays a bonus of 2 per cent. on net annual purchases. There are, of course, cases where money is deposited with this firm and purchases are made and yet interest is allowed at the rate of 4 per cent.; and this results, although the firm claims that it endeavors to restrict depositors to those who are purchasers at their store. The moneys thus received on deposit are not segregated but deposited by the firm with their other moneys; and the claim is made that, inasmuch as the mercantile department has no debt, the firm paying cash for everything it buys and receiving cash for everything it sells, the depositors are absolutely secured by the personal responsibility of the members of the firm.

Your committee further ascertained that by reason of the fact that there is no restriction on the nature of the investments to be made by a private banker and no supervision over such bankers by the Banking Department or other officers of the State, investments have been made on the depositors' money in some cases in second mortgages, which, by reason of the condition of the real estate market since 1907, have made it necessary for the banks to take the property covered by the second mortgage to secure

himself for the loans, and that in one case real estate held by such private banker represents 60 per cent. of his depositors' moneys.

It seems to your committee absolutely essential that private bankers who receive small savings of the public upon the promise of allowing interest upon them or who receive small sums for deposit, thus appealing to a class of people who are not as able to protect themselves as the merchants and investors, should be under the jurisdiction of the State Banking Department and subject to such restrictions as will make it impossible for such a condition to result as in the case of Henry Siegel & Co., Private Bankers.

There is another class of private bankers in this State who sell railroad tickets and receive money for transmission to foreign countries. Some of this business is done in connection with the business of receiving money on deposit and paying interest. The class of people who deal with such bankers are largely emigrants — invariably poor and unacquainted with business methods or the English language.

The bond of \$100,000 is an inadequate protection to the persons dealing with such bankers. Supervision and control over them by the State Banking Department is absolutely necessary for the protection of the public, in addition to requiring them to deposit some security with the Superintendent of Banks to insure the safety of the money entrusted to them.

As a most striking example of the evils existing in the private banking business and the absolute lack of security furnished to depositors, attention is called to the facts developed in relation to the failure of the firm of Henry Siegel & Co., bankers. This firm was composed of Frank E. Vogel and Henry Siegel, doing business as private bankers. They conducted their business in a department store which was carried on under the corporate name of "The 14th St. Store," organized with a capital stock of \$1,000,000. They were also interested as stockholders in the corporation of Henry Siegel Co., a corporation organized under the laws of the State of Massachusetts and having an authorized capital of \$1,000,000, and conducting a department store in the city of Boston, Mass. They were also interested in the Simpson-Crawford Co., a corporation organized under the laws of the State of New York, having an authorized capital stock of \$1,400,000, and carrying on a department store in the city of New York. A holding company was formed known as the "Siegel Stores Corporation" with an authorized capital of \$10,275,000, consisting of \$2,000,000 par value of 7 per cent. preferred stock and \$8,275,000

par value of common stock. Such holding company owned all the stock of the Simpson-Crawford Co., of the 14th Ct. Store and also of another company organized under the laws of the State of Illinois and known as the "Siegel-Cooper Co.," which owns and controls a department store in the city of Chicago. The firm of Henry Siegel & Co., composed as aforesaid, carried on a banking business for a number of years in the 14th St. Store, solicited deposits by advertising and otherwise and paid $4\frac{1}{2}$ per cent. interest to their depositors. Their banking business was conducted, so far as it appeared to the depositors, in all respects as a savings bank, and at the time of their failure they had on deposit about \$2,500,000 distributed among between twelve and fifteen thousand depositors. A large number of these depositors were women: most of them were poor, and a majority of the accounts were kept as savings accounts, a very little money being withdrawn from them. So far as it appears from the testimony no actual capital was invested in this banking business, and the moneys received from the depositors was used by the members of the firm in any manner they saw fit and treated by them as if they were their own moneys. According to the books of the private bankers at the time of the failure it appeared that they had lent to the Simpson-Crawford Co., without any security, \$1,449,669.28, in the 14th St. Store, \$598,429.72, to Henry Siegel & Co. of Boston, \$363,796.59, and to Henry Siegel personally, \$154,191.77. It thus appears that the entire amount of the depositors' money was used by the bankers in the promotion of mercantile businesses in which they were interested. At the time these loans were made no security of any kind was given for them nor was there any note or other evidence of indebtedness taken.

About a week before the failure one of the members of the firm gave to the cashier of the private banking department an envelope to place in the safe. This envelope contained certain stock of the Siegel Stores Corporation, the holding company, which was stated in a paper accompanying the stock and signed by Henry Siegel and Frank E. Vogel to be held as collateral security for any and all loans made by the firm of Henry Siegel & Co., bankers, to Henry Siegel or to the stores in which they were interested.

The Simpson-Crawford Co., the 14th St. Store and Henry Siegel & Co., are now in the hands of receivers, and petitions in bankruptcy have been filed against them. The value of the stock is therefore entirely problematical. Unless a reorganization of these corporations is had the stock will possess little, if any, value. The only other assets held by the receiver of the pri-

vate bankers at the time of their failure was about \$35,000 in cash, a few notes of a very small amount and the bond for \$100,000 filed with the State Comptroller. It would thus appear that the depositors of this banking firm have very little security for their deposits and are likely to sustain a serious loss. At the time of the failure of these various enterprises a suit was brought in equity in the United States District Court for the Southern District of New York by the Siegel Stores Corporation, the holding company, who claimed to be a creditor of the Simpson-Crawford Co. for an amount in excess of \$65,000 and of the 14th St. Store for an amount in excess of \$350,000 and of the Boston company for an amount in excess of \$60,000, for the ostensible purpose of preserving the assets of these different companies, and in which suit an injunction was issued enjoining the depositors from suing either Mr. Siegel or Mr. Vogel or taking any steps to enforce their claims against them. But no injunction was issued against Mr. Siegel or Mr. Vogel restraining them from disposing of any personal assets which either one of them might have. While this proceeding did not actually injure the depositors, it can be readily seen that if the private banking business is allowed to be carried on without regulation or supervision there might be an absolute lack of protection to the depositors who could be thus enjoined from enforcing their rights, while the bankers with whom they have deposited money would be free to dispose of their property at will. Such a condition of affairs could not exist were the private bankers of this class under the jurisdiction of the State Superintendent of Banks and regulated by statute as to their method of conducting business, and liquidating in case of suspension.

The failure of Henry Bisehoff & Co., a banking house which has been in business for over forty years and of whom a receiver was appointed in the month of January of this year, offers another striking illustration of the necessity for legislation with reference to the private banking business.

This firm had conducted a private banking business for many years and had a large number of depositors and a large amount of money on deposit. In connection with its private banking business it also conducted the business of selling steamship tickets and receiving money for transmission to foreign countries. The class of people who deposited with them, purchased tickets and gave them money for transmission were mostly foreigners, of the laboring class, not accustomed to business and in many cases not speaking the English language. Interest at the rate of 4 per cent.

was allowed on deposits, and the business was conducted in all respects, so far as it appeared to the depositors, as a savings bank. In January, 1913, a bank was incorporated under the name of "Bischoff's Banking House." The incorporated company conducted its business in the same place in which Henry Bischoff & Co. had formerly conducted their private banking business and the private banking business was moved to a rear room on the same floor opening into the bank and access to which was obtained through the bank. In the same room with the incorporated bank a steamship ticket business was conducted, and the sign on the front door was "Bischoff's Banking House," the name of the incorporated bank, and also, "Henry Bischoff & Co., Bankers." Pass-books had been issued prior to the incorporation of the bank which had printed on them "Bischoff's Banking House, Henry Bischoff & Co., Bankers;" and these pass-books were continued after the incorporation of the bank. There can be no doubt that a large majority of the persons depositing money with the private bankers made no distinction between the incorporated bank and the private bank and believed that they were depositing money in a bank protected by the laws of this State. The condition of affairs of this banking house as revealed by the examination of your committee shows that the money deposited was not invested in a safe or business-like manner but was treated by the private bankers as their own money and that there will be a serious loss to the depositors.

Many other facts elicited in the course of the investigation conducted by your committee could be stated to show the necessity of legislation for the protection of depositors with private bankers. Your committee feels, however, that enough has already been set forth to indicate that a distinction should be made between those private bankers who pay interest on small amounts and practically carry on the business of savings banks and that class of private bankers who do a general banking business in the purchase and sale of securities for large corporations and individuals and who do not in any sense receive the savings of the public. For the purpose of framing such a bill your committee has conferred with the commission to revise the Banking Laws created by the Legislature of 1913, which has been engaged for some time in the revision of the entire Banking Law of this State; and while it approves of the general plan of the tentative draft of the article on private bankers prepared by such commission, it has found it advisable to make certain changes and insert certain

other provisions therein which, in its judgment are necessary to meet the conditions disclosed by the examination conducted by it.

Inasmuch as the commission is to present to the Legislature a revision of the entire banking laws, your committee has prepared a proposed law upon "private bankers," in such manner that it can become a part of this revision, in case the same is adopted or can be added as a separate article to the present Banking Law.

They have deemed this the wisest course, because of the fact that the investigation has shown an imperative necessity for the placing of private bankers under supervision and of regulating their business by statute.

It may be that in so comprehensive a subject as the Banking Law differences of opinion may delay the enactment of the entire revision and such a result would then leave private bankers free to conduct their business without statutory regulation.

The fact that four have failed since the 1st of January, and that their depositors will suffer a severe loss, demonstrates the seriousness of the situation.

The proposed legislation accompanying this report is intended to carry out the following recommendations of your committee:

1. A distinction should be made, on the one hand, as indicated in our report, between the private banker who solicits or receives money for safe keeping, allowing interest therefor to a class of depositors which a savings bank is intended to serve, and on the other hand, private bankers who do not in any sense receive savings deposits, but deal with investors and merchants who are familiar with commerce and finance, and able to determine for themselves the responsibility of the bankers with whom they deal.
2. Bankers of the former class should be under the supervision of the State, for the purpose of adequately protecting those persons depositing money with such private bankers for either safe keeping or transmission to foreign countries. That the State Banking Department exercise the power of supervision over such private bankers, instead of the State Comptroller, as now provided in chapter 348 of the Laws of 1910, the scope of such supervision to be similar to that now exercised by the Superintendent with reference to incorporated banks. Private bankers of the second class should be exempted from such supervision.
3. That all private bankers of the former class should be placed under such supervision and no exemption should be allowed to this class conditioned upon the filing of a bond, as was provided in chapter 348 of the Laws of 1910.

4. That the application of the law should extend to bankers throughout the State, and not be limited to those engaged in the cities of the first class.

5. That the Superintendent of Banks make an examination of the affairs of all private bankers, to be brought under his supervision, to ascertain whether it is safe to authorize them to continue in business, or whether their condition is such as to render it advisable for them to liquidate, and that such liquidation be undertaken by the Superintendent of Banks under the provisions now applicable to liquidation by the Superintendent of incorporated banks.

6. That the Superintendent have power to investigate the affairs of private bankers of the second class, for the purpose of determining whether their responsibility and method of transacting their business is such as to bring them within the exempt class, and that he annually thereafter make such investigation for the same purpose.

7. That private bankers under the supervision of the Superintendent of Banks be forbidden from lending the money of their depositors, or the capital invested in such banking business, directly or indirectly, to themselves, or to any partnership, or any unincorporated association of which such banker is a member, or to any corporation in which such private banker, or any person constituting a member of a firm of private bankers, shall own, directly or indirectly, 10 per cent. of the capital stock of such corporation.

8. That all such private bankers under the jurisdiction of the Superintendent of Banks be required to segregate and keep separate and apart from all other property and assets of said private banker, the deposits and capital of such banking business.

9. That all such private bankers under the jurisdiction of the Superintendent of Banks be required to maintain a reserve of 15 per cent. of their deposits in cities of the first class, and 10 per cent. of such deposits elsewhere in the city.

10. That all such private bankers under the supervision of the Banking Department be required to deposit with the Superintendent of Banks, to an amount in value of at least 15 per cent. of the total deposits held by such bankers, securities of a kind in which savings banks are required by law to invest their deposits.

11. Giving to such private bankers now in business the privilege of transferring any securities now held by the Comptroller to the Superintendent, for the purpose of creating such deposit with the latter.

12. Prohibiting such private banker under the supervision of the Superintendent of Banks to purchase real estate in the future, and allowing such banker now owning real estate a period of five years within which to dispose of the same.

13. Forbidding the making of any loan upon the security of real estate where such real estate is subject to a prior lien or encumbrance, and the amount unpaid thereon exceeds 10 per cent. of the permanent capital of such banker, or where the amount so secured, including all prior liens, exceeds two-thirds of the assessed value of such real estate.

14. Preferring the claims of all depositors of such private banker against the proceeds of any securities delivered to the Superintendent, and against all assets as shall be shown by the books of such banker, or other legal evidence, to have been derived from the investment of such deposits, or any permanent capital, and set aside for employment in such banker's business.

15. Prohibiting any private banker, subject to the supervision of the Superintendent, from doing business, or being located in the same room with, or any room connected with any bank, trust company, savings bank or national banking association.

16. That the conducting of private banking business, without obtaining from the Superintendent of Banks certificate of authority or exemption, shall constitute a misdemeanor. That making a false statement in any application for leave to do business, or in any report filed with the Superintendent, shall constitute perjury.

17. That sections 304 and 305 of the Penal Law, in relation to falsification of books and records of banks, and misapplication of their property be amended so as to apply to private bankers.

Respectfully submitted,

Dated February 16, 1914.

HENRY W. POLLOCK,
Chairman,
WILLIAM D. PECKHAM,
WILLIAM B. CARSWELL,
WILLIAM J. HEFFERNAN,
JOHN F. HEALY,
JAMES A. EMERSON,
WILLIAM L. ORMROD,
State Senate Committee.

DANIEL P. HAYS,
Of Counsel.

AN ACT to amend the banking law, in regard to private bankers and to repeal article three-a of the general business law, relating to private banking.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter ten of the laws of nineteen hundred and nine, entitled "An act in regard to banks, individual bankers and corporations under the supervision of the banking department," constituting chapter two of the consolidated laws, is hereby amended by adding thereto a new paragraph, to read as follows:

The term "private banker," when used in this chapter, means an individual other than as individual banker, who, by himself or as a member of a partnership or an unincorporated association, other than an unincorporated express company, having a contract with a railroad or railroad companies for the operation of an express service upon the lines thereof, is engaged in the business of receiving deposits subject to check or for payment upon the presentation of a passbook, certificate of deposit or other evidence of debt, or upon the request of the depositor or in the discretion of such individual, partnership or unincorporated association; of receiving money for transmission; or is engaged in the business of transacting any part of such business. The term private banker when so used shall include the executor or administrator of a deceased private banker and a partnership or unincorporated association of private bankers.

§ 2. Article twelve and sections three hundred and sixty and three hundred and sixty-one of said chapter ten of the laws of nineteen hundred and nine, entitled "An act in regard to banks, individual bankers and corporations under the supervision of the banking department," constituting chapter two of the consolidated laws, are hereby renumbered article thirteen and sections three hundred and ninety and three hundred and ninety-one, respectively.

§ 3. Said chapter is hereby amended by inserting therein a new article, to be article twelve, to read as follows:

ARTICLE 12.

PRIVATE BANKERS.

Section 360. Scope of article.

- 361. Verified petition to be filed by private banker. Certificate of authorization or exemption.
- 362. Conditions precedent to transacting business of private bankers.
- 363. Permanent capital; increase or decrease thereof.
- 364. Conditions entitling private bankers to certain exemptions.
- 365. Books and records.
- 366. Annual report of unclaimed deposits.
- 367. Deposit of securities with superintendent.
- 368. Reserves against deposits.
- 369. Regulations as to transmission of money to foreign countries; burden of proof on action based upon failure to transmit.
- 370. Private banker or agent thereof shall give proper receipt for money received for transmission.
- 371. Investment and segregation of permanent capital and deposits.
- 372. Real estate and certain securities; when to be sold.
- 373. Restrictions as to loans.
- 374. Monthly meetings and reports.
- 375. Continuance of business of deceased private banker.
- 376. Depositors preferred in case of insolvency.
- 377. Restrictions as to place of business.
- 378. Reports required by superintendent; penalty for failure to make.
- 379. Jurisdiction and supervision of the superintendent of banks.
- 380. Perjury.
- 381. Penalties.

ARTICLE 12.

PRIVATE BANKERS.

Section 360. Scope of article. The provisions of this article, except as hereinafter further limited, shall apply to every private banker engaged in the business of private banking in the state.

1. Who makes use of any office or exterior sign bearing thereon the word "bank," "banker," "banking," or any English derivative or compound of the word "bank," or any words in a foreign language having the same or similar meanings, or any words whatever to indicate to the general public that such person is engaged in the business of a private banker; or

2. Who pays or credits interest, or pays, credits or gives any bonus or gratuity or anything of value, except on certificates of deposit actually outstanding at the time this article takes effect, to any depositor on a deposit balance of

(a) Less than one thousand dollars, if such private banker is engaged in business in a city of the first class having a population of over one million, or

(b) Less than five hundred dollars if such private banker is engaged in business elsewhere in the state, or

3. Who receives money on deposit for safekeeping or for transmission to others or for any other purpose in such sums that the average amount of each sum received on deposit or for transmission by such private banker during any twelve successive months, or for such period, if less than twelve months, that such private banker has been engaged in such business, exclusive of dividend checks, coupons, or other small collection items collected by such private banker for customers in the ordinary course of business, is less than five hundred dollars.

§ 361. Verified petition to be filed by private banker. Certificate of authorization or exemption. Every private banker to whom this article is applicable within thirty days after this article takes effect and every other person, partnership or unincorporated association, thereafter seeking to engage in such business in the state, shall file in the office of the superintendent of banks a verified petition which shall state

1. The full name, residence and post office address of such individual or of each member of such partnership or unincorporated association.

2. The state or country, of which each individual mentioned in such petition is a citizen.

3. If such applicant is already engaged in such business as a private banker, and does not claim the exemption provided in section three hundred and sixty-four of this act, the amount of permanent capital such individual partnership or unincorporated association has invested in such banking business, or if the appli-

cant is not already engaged in such business, the amount of permanent capital which is supposed to be invested in such banking business, and that the same has been deposited in cash with some national or state bank, or trust company within the state, at the time said petition is verified and said petition shall state the name of such depository.

4. If such applicant is engaged in business as a private banker at the time of filing such petition, and does not claim the exemption provided in section three hundred and sixty-four of this act, such petition shall further state the amount of deposits then on hand, and the manner in which the same are invested, and the amount of the liabilities of such private banker, whether incurred in such private banking business or otherwise.

5. The place or places at which such business is then or is to be thereafter transacted, and if in any city, the street and number.

6. Whether such banker pays or credits interest, or pays, credits or gives any bonus or gratuity, or anything of value to any depositor upon a deposit balance of less than one thousand dollars, and whether the average amount of each sum received on deposit, or for transmission by such private banker for a period of twelve months immediately preceding the date of such verified petition has amounted to five hundred dollars or upwards; or, if the applicant has not already engaged in such business, said petition shall state the minimum amount of deposit balance upon which such applicant proposes to pay or credit interest, or to pay, or give such bonus or gratuity or things of value, and the minimum amount of any sum he intends to receive for deposit or transmission.

7. Whether the applicant claims the right to engage in the business of a private banker, pursuant to the provisions of section three hundred and sixty-four of this act.

“Such petition shall be dated and verified by such individual or by each member of a partnership or unincorporated association upon a form prepared by the superintendent of banks, which form shall state that the affiant or affiants have read such petition, and that the facts therein stated are true.”

Upon the filing of the verified petition with the superintendent of banks, hereinbefore provided for, the superintendent of banks shall make an examination of the affairs of such private banker for the purpose of ascertaining the truth of the facts stated in such petition and whether such private banker is entitled to the

exemptions specified and provided in section three hundred and sixty-four of this act.

" If the superintendent of banks finds that the statements contained in said petition are true, and that such private banker is entitled to the exemptions specified and provided for in section three hundred and sixty-four of this act he shall issue under his hand and official seal in triplicate a certificate of exemption setting forth that such private banker is entitled to the exemptions specified in section three hundred and sixty-four of this act and shall file one of such certificates in the office of the county clerk of the county in which the business of such private banker is then or is to be thereafter transacted, as set forth in such petition, file another in the office of the superintendent and transmit the third to such private banker."

In case such private banker does not claim the exemptions provided for in section three hundred and sixty-four of this act the superintendent of banks, if he ascertains upon such examination that the statements contained in said petitions are true and that the character, responsibility and general fitness of the petitions are such as to command confidence and warrant belief that the business of such private banker will be honestly and efficiently conducted in accordance with the intent and purpose of this article, and that the deposits and capital of such private banker are invested in such a manner as to afford security to the depositors and that such private banker has promptly transmitted all sums received by him for transmission during a period of twelve months preceding the date of filing such petition and that at least one of such petitioners is a citizen of the United States and a resident of this state, shall issue under his hand and official seal in triplicate an authorization certificate to such private banker to continue to carry on such business and file one of such certificates thereof in the office of the clerk of the county in which such private banker carries on the business of private banking, as specified in said petition, file another in the office of the superintendent and transmit the third to such private banker. If upon such examination the superintendent of banks ascertains that such private banker is not entitled to the authorization certificate provided for in this section, he shall refuse to issue such authorization certificate to such private banker to continue such business until such private banker has complied with all orders and directions which the superintendent of banks may make, and in case any such pri-

vate banker does not comply with such orders and directions of the superintendent of banks, then and in that case the superintendent of banks may apply to the supreme court in the county in which such private banker carries on business, upon which such notice to the private banker as the court may direct, for an order restraining such private banker from further carrying on said business and authorizing the superintendent of banks to take possession of the property and business of such private banker and retain such possession until such private banker shall resume business with the consent of the superintendent, or the affairs of such private banker be finally liquidated as provided by section nineteen of the banking law.

If the applicant is not already engaged in business as a private banker the superintendent of banks shall, if he ascertains upon examination that the statements contained in said petition are true and that the character, responsibility and general fitness of the person or persons named in such petitions are such as to command confidence and warrant belief that the business of the proposed private banker will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter and that the public comfort and convenience will be promoted by allowing such proposed private banker to engage in business, issue under his hand and official seal in triplicate an authorization certificate to such private banker to carry on the business of private banking, and file one of such certificates in the office of the clerk of the county in which such private banker proposes to carry on the business of private banking, as specified in said petition, file another in the office of the superintendent and transmit the third to such private banker.

§ 362. Conditions precedent to transacting business of private bankers. After the first day of July, nineteen hundred and fourteen, no private banker shall engage or continue in the business of private banking in this state until the superintendent of banks shall have duly issued his authorization certificate, or a certificate of exemption, as above provided or if required by this article to do so until such private banker shall have deposited with the superintendent of banks the securities required by section three hundred and sixty-seven of this act.

§ 363. Permanent capital increase or decrease thereof. Every such private banker shall keep unimpaired in his banking business the amount of permanent capital specified in the verified

petition provided for in section three hundred and sixty-one of this act. From time to time, with the written approval of the superintendent, and upon good cause shown, such capital may be decreased or increased. The permanent capital of a private banker not engaged in the business of private banking at the time of the due filing by the superintendent of the authorization certificate of such private banker provided for in section three hundred and sixty-one of this act, must be deposited in cash at the time of filing of such petition in a national or state bank or trust company within this state.

§ 364. Conditions entitling private bankers to certain exemptions. If the petition, verified by such private bankers and filed with the superintendent of banks states that the applicant claims the right to engage in the business of private banker under the provisions of this section, such private banker shall incorporate in such petition the following statements, in addition to those required by section three hundred and sixty-one of this act:

1. Where such private banker is engaged or intends to engage in the business of private banking in a place other than a city of the first or second class, that such private banker has permanently invested in this state in the business of private banking on the date of such petition a capital of at least fifty thousand dollars over and above all liabilities of such private banker.

Where such banker is engaged or intends to engage in the business of private banking in a city of the second class, that such private banker has kept permanently invested in this state in the business of private banking on the date of such petition, a capital of one hundred thousand dollars over and above all liabilities of such private banker.

Where such banker is engaged or intends to engage in the business of private banking in a city of the first class:

That such private banker has permanently invested in this state in the business of private banking on the date of such petition a capital of at least two hundred thousand dollars over and above all liabilities of such private banker.

2. That such applicant will not pay or credit or advertise to pay or credit any interest or pay, credit or give any bonus or gratuity whatever, or anything of value to any depositor upon a deposit balance with such private banker or less than one thousand dollars.

Where such private banker is engaged in business that the aver-

age amount of each sum received on deposit, or for transmission by such private banker, during the twelve months immediately preceding the date of such petition has not been less than five hundred dollars.

After the date upon which the superintendent has duly issued the exemption certificate provided for in section three hundred and sixty-one of this act, and until the first day of March, next succeeding, the subsequent sections of this article with the exception of sections three hundred and eighty and three hundred and eighty-one shall not apply to such private banker.

Every private banker whose exemption certificate provided for in section twelve of this article has been duly issued by the superintendent of banks as herein provided, and who claims the right to continue to engage in such business under the provisions of this section, after the first day of March next succeeding said filing of such certificate by the superintendent, shall file in the office of the superintendent not less than thirty days nor more than sixty days before said last mentioned date, and annually thereafter during the same period, a petition similarly verified and containing the statements above specified as of a date within said last mentioned period, and thereupon, the superintendent of banks, after he is satisfied by examination or otherwise that the statements in such petition are true, issue under his hand and official seal in triplicate such private banker a new exemption certificate, and shall file one of such certificates in the office of the county clerk of the county in which said banker has his principal office, another in the office of the superintendent, and shall transmit the third to such private banker. And in the event of said private banker failing to file such petition, or in the event of the refusal of the superintendent of banks to grant such exemption certificate, said private banker shall immediately become subject to all of the provisions contained in the subsequent sections of this article.

§ 365. Books and records. Every such private banker shall keep separate and complete books of account, in such form as the superintendent shall prescribe, containing complete and full records of all business transacted as such private banker and full and complete statements of the assets in which the permanent capital and deposits received have been invested and also all liabilities incurred as such private banker.

Every such banker shall preserve the books and records of such banking business, including cards used in the card system and de-

posit tickets for a period of at least six years from the date of making the same or from the date of the last entry therein, unless the superintendent upon the application of such private banker, shall have otherwise directed.

§ 366. Annual report of unclaimed deposits. In the month of September in each year and on or before the tenth day thereof every private banker engaged in the business of private banking shall make a verified written report to the superintendent of banks, which shall contain a true and accurate statement of all deposits made with such private banker, which, on the first day of August, preceding such report, amounted to fifty dollars or over and which have remained unclaimed by any person or persons authorized to receive the same for five years then next preceding. Such statement shall set forth the date of each such deposit, its amount, and the name and last known place of residence or the post office address of the person making it. In case any such private banker at said date holds no such unclaimed deposits, such private banker shall at the time above specified make written verified report to the superintendent, so stating. No deposits shall be deemed unclaimed within the meaning of this section if it appears from the books of such private banker or from other written evidence on file in his office that the person or persons authorized to receive such deposit have knowledge thereof.

Every such private banker reporting any unclaimed deposits under the provisions of this section shall cause to be published, once each week for two successive weeks, in a newspaper designated by the superintendent, published in the county in which the business of such private banker is located, if there be a newspaper published therein, and at least once in a newspaper published at Albany in which notices by state officers are required to be published, a true copy of each report, and shall file with the superintendent of banks on or before the first day of October in each year proof by affidavit of publication. The expense of such publication shall be paid by such private banker, but if, on or before the first day of August in that year, such private banker shall have mailed, postage prepaid, to each person authorized to receive any such unclaimed deposits at his last known place of residence or post office address, a statement showing the amount to which such person is entitled, and requesting written acknowledgment thereof, such private banker may deduct the amount thereof from the sums due any such person or persons who shall not have made written

acknowledgment before the filing of such report with the superintendent, in the proportion that each sum bears to the aggregate thereof.

Every such private banker failing to make any report or to file any affidavit of publication required by this section shall forfeit to the people of the state the sum of one hundred dollars for each day such report or the filing of such affidavit of publication shall be so delayed or withheld, unless the time thereof shall have been extended by the superintendent as provided by this chapter.

§ 367. Deposit of securities with superintendent. Every such banker who has not received the certificate of exemption provided for in section three hundred and sixty-one of this act, shall transfer and assign to the superintendent of banks, registered stock or bonds of a kind in which savings banks are required by this chapter to invest their deposits, and to an amount in value equal to at least fifteen per centum of the total deposits held by such private banker; and in any event to the value of at least ten thousand dollars, and such banker shall at all times thereafter keep on deposit with the superintendent, stocks or bonds of such kind to the amount in value of fifteen per centum of the total deposits of such banker, and not, in any event, less than ten thousand dollars. Such stocks or bonds shall be registered in the name of the superintendent of banks officially as held in trust under and pursuant to the provisions of this article as security for the depositors of moneys for transmission or safe keeping with such private banker, subject to sale and transfer or disposal of the proceeds thereof, by the superintendent only upon the order of a court of competent jurisdiction, after due notice to such private banker. Until the order of such court authorizing such sale or transfer or other disposition thereof, such private banker shall be entitled to receive the income from such securities unless he shall be in default to the superintendent in the payment of any penalty or forfeiture for which such private banker shall have become liable under the provisions of this chapter. In case such banker shall have deposited with the superintendent securities to an amount in value in excess of the amount at any time required, by the provisions of this section, upon due proof of such facts, such private banker shall be entitled to receive from the superintendent any such excess or securities deposited by such banker as required by this section, or may be exchanged from time to time with the approval of the superintendent for other securities of the same kind which

may be deposited with the superintendent as hereinbefore provided.

On or before the first of July, nineteen hundred and fourteen, such private banker may deposit or cause to be deposited with the superintendent of banks securities or moneys, theretofore deposited by such private banker with the comptroller under chapter three hundred and forty-eight of the laws of nineteen hundred and ten, as amended by chapter three hundred and ninety-three of the laws of nineteen hundred and eleven, and the comptroller is hereby authorized to transfer such securities or moneys to the superintendent of banks and the superintendent is hereby authorized to receive such securities or moneys and to hold them as part deposit of securities required by this section for a period of one year thereafter, during which period other securities of the kind which may be deposited with the superintendent as hereinbefore provided shall be substituted therefor.

At any time before the first day of July, nineteen hundred and fourteen, such private banker may cause any surety company, which has received from any such private banker securities or moneys to indemnify itself on account of any bond issued by it on behalf of such banker under the provisions of chapter three hundred and forty-eight of the laws of nineteen hundred and ten, as amended by chapter three hundred and ninety-three of the laws of nineteen hundred and eleven, to assign and transfer such securities or moneys to the superintendent of banks in trust for the depositors of such private banker, or for any person theretofore or thereafter delivering money to such banker for transmission, and any surety company is hereby authorized to transfer and assign such securities or moneys to the superintendent of banks for such purpose; and in case such securities or moneys shall be so assigned or transferred and such surety company shall thereafter become liable on such bond, such moneys or the sums realized from the sale of such securities, or further securities substituted for them, shall be applied in the first instance to the payment of any indebtedness of such private banker to such surety company. Such private banker shall be entitled to have any such securities or moneys so transferred by such surety company to the superintendent of banks, received by such superintendent and held by him as part of the deposit required by this section for a period of one year thereafter, during which year securities must be substituted therefor in which savings banks are authorized to invest deposits received by them.

At any time after this article takes effect any private banker, who has heretofore given a bond to the comptroller pursuant to the provisions of chapter three hundred and forty-eight of the laws of nineteen hundred and ten, as amended by chapter three hundred and ninety-three of the laws of nineteen hundred and eleven, may institute a proceeding in the supreme court in the county in which said private banker's principal place of business is located for an order discharging the surety company from any liability under said bond. Such proceedings shall be commenced by filing a verified petition in the office of the clerk of the county in which the principal office of such banker is located, setting forth the facts relating to the giving of such bond, that such banker has complied with the provisions of this act, and has assigned, transferred or delivered to the superintendent of banks, the securities or moneys required by this section, and that an authorization certificate has been duly issued to such banker to carry on the business of private banking as herein provided. In case such banker shall request any surety company, which shall have received from any such private banker indemnity of any kind as security for the execution of any bond issued by it on behalf of such banker as aforesaid, to assign and transfer any securities given to it, as such indemnity to the superintendent of banks in trust for the depositors of such private banker, for the persons delivering money for transmission to such private banker, as provided for in this section, or to assign and transfer such securities to said private banker, or his nominee, and such surety company shall refuse to make such assignment or transfer that fact may also be set forth in such petition, together with a description of such securities. Such petition shall also set forth the number of depositors of the private banker. Upon the filing of such verified petition, as aforesaid, the court may issue an order requiring the comptroller, the surety company, and the depositors of the private banker as a class, and ten specified depositors of such class, to show cause at a special term of the supreme court, at a time and place to be fixed by the court, not less than thirty days from the date of granting the order, why the bond referred to in said petition, given by such surety company on behalf of such banker, shall not be cancelled and discharged, the surety company relieved from all liability thereunder and any indemnity or securities received and held by such surety company on account of such bond should not be assigned and transferred to such banker or his nomi-

noe, or to the superintendent of banks, as provided for in this section. Such order shall prescribe the manner of giving notice, which shall be by personal service of the petition and order to show cause aforesaid upon the surety company, the comptroller and the aforesaid ten specified depositors of said banker, and by the publication of such order to show cause, once a week, for four successive weeks, in two newspapers of general circulation, published in the county where said banker has his principal place of business.

Upon the return day of said order the court shall hear the application of the petitioner and all persons interested therein, and on such hearing determine any question of fact or law arising thereon or involved therein, and if upon such hearing it shall appear that said private banker has complied with all of the provisions of this article, and has received an authorization certificate permitting such banker to carry on the private banking business under the provisions of this article and that the facts stated in said petition are true, and that proper cause has been shown for granting the prayer of said petitioner, the court shall thereupon enter an order discharging and releasing such surety company from any and all liability on any such bond, and shall direct the comptroller to surrender the same to such surety company upon the assignment and transfer to the superintendent of banks, or to such private banker or his nominee, as the case may be, of any securities held by it as indemnity as aforesaid, and upon the entry of such order and the assignment and transfer of such securities, as provided in said order, such surety company shall be discharged and released from any and all liability on any such bond.

§ 368. Reserves against deposits. Every such private banker shall maintain total reserves against his aggregate demand deposits as follows:

1. Fifteen per centum thereof, if such private banker is engaged in business as private banker in a city of the first class; ten per centum if such private banker is engaged in business as a private banker in any other city.

One-tenth of such total reserves shall consist of reserves on hand, and the balance thereof may consist of reserves on deposit subject to call in national banking associations, state banks or trust companies located within the state.

§ 369. Regulations as to transmission of money to foreign countries; burden of proof in action based on failure to transmit.

Every such private banker shall forward to the person designated to receive the same, all moneys received for transmission to a foreign country within five days after the receipt thereof, unless otherwise agreed between the parties in writing. In any action against such private banker to recover money deposited for transmission with such private banker, the burden of proving the transmission to and receipt of the money so directed to be paid shall be upon such private banker. In any such action such private banker may, however, introduce in evidence his duly authenticated affidavit, or such affidavit of his duly authorized agent, setting forth the fact of the transmission of such money, either to the person to whom the same was to be transmitted, or to the agent or correspondent of such private banker, to whom such money may have been transmitted for payment, together with a duly authenticated receipt signed by the consignee of such money; or in lieu of such receipt, together with a duly authenticated affidavit of such agent or correspondent setting forth the fact of payment.

The introduction in evidence in any such action of any such documents, setting forth such facts, shall constitute sufficient evidence to shift to the plaintiff the burden of proof of the facts stated therein.

§ 370. Private banker or agent thereof shall give proper receipt for money received for transmission. Every such private banker and every agent of such private banker shall whenever money is received for transmission, give to the person delivering or depositing such money, a receipt therefor in the name of such private banker, which shall state the purpose for which such money was received and the name of the person to whom such money is to be transmitted. Every person violating the provisions of this section shall be guilty of a misdemeanor, and be subject to a fine of not more than five hundred dollars, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

§ 371. Investment and segregation of permanent capital and deposits. The permanent capital and deposits of every such private banker may hereafter be invested in such personal securities or personal property consistent with safety and prudence of management as such private banker may deem proper, provided the security afforded depositors is not imperiled by such investments. All securities, property and the evidences of title thereto in which

the permanent capital and the deposits of any private banker have been invested shall be segregated and kept separate and apart from all other property and assets of such private banker.

Such private banker may also purchase, hold and convey real property, for the following purposes:

(a) Such as shall be necessary for his immediate accommodation and the convenient transaction of his business.

(b) Such as shall be mortgaged to him in good faith by way of security for loans made by or moneys due to such private banker.

(c) Such as shall be conveyed to him in satisfaction of debts previously contracted in the course of his dealings.

(d) Such as he shall purchase at sales under judgments, decrees or mortgages held by him as such private banker.

(e) No such private banker shall purchase, hold or convey real property in any other case, or for any other purpose.

§ 373. Real estate and certain securities; when to hold. All real estate which shall have been purchased or otherwise acquired by any such private banker at any time with the capital invested in the business of such private banker or with deposits, except such real estate upon which the office of the private banker is located, shall be sold within five years after this article takes effect or after such real estate shall have been acquired unless upon application the superintendent of banks shall have extended the time within which such sale shall be made.

§ 373. Restrictions as to loans. No such private banker shall hereafter make a loan directly or indirectly upon the security of real estate if such real estate is subject to a prior lien or incumbrance, and the amount unpaid upon such prior lien or incumbrance, or the aggregate amount unpaid upon all prior liens or incumbrances exceed ten per centum of the permanent capital of such private banker, or if the amount so secured, including all prior liens and incumbrances exceeds two-thirds of the assessed value of such real estate. No such private banker shall hereafter loan any part of the capital invested in such banking business, or any part of the deposits to himself directly or indirectly, or to any partnership or unincorporated association of which such private banker is a member, or in which any one of the persons constituting such private banker is a member, or to any corporation in which such private banker, or any person constituting a member of such private banker shall own directly or indirectly twenty-five per centum of the capital stock of such corporation.

§ 374. Monthly meetings and reports. On or before the tenth day of each month every such private banker shall make a written statement in duplicate of all purchases and sales of property in connection with his banking business and of every discount, loan or other advance, including over-drafts and renewals, since the last preceding monthly statement, describing the collateral, if any, of such indebtedness, as of the date upon which the statement is made, but such private banker may omit from such statement, discounts, loans or advances, including over-drafts or renewals of less than one hundred dollars, unless by reason of such discounts, loans or advances the liability of some individual, partnership, unincorporated association or corporation shall have been increased one hundred dollars or more since the last preceding monthly statement; such statement shall be verified by such private banker in duplicate and one duplicate shall be immediately filed in his office, and on the same date the other duplicate shall be mailed, in a sealed envelope, postage prepaid, addressed to the superintendent of banks at Albany.

Members of any such partnership or unincorporated association of private bankers shall, on or before the tenth day of each month, meet for the purpose of considering the condition and affairs of the banking business conducted by them, and of making such statement and such statement shall be verified by each member of every such partnership or unincorporated association of private bankers, except in case of disability or unavoidable absence.

§ 375. Continuance of business of deceased private banker. In case of the death of a member of a partnership or unincorporated association of private bankers the surviving members of such partnership or unincorporated association may, with the due approval of the executor or administrator of such deceased member, continue to conduct such banking business subject to the provisions of this act until such time as a settlement is made with the executor or administrator of such deceased member.

§ 376. Depositors preferred in case of insolvency. In case of the failure or suspension of any private banker the claims of persons depositing money for safe keeping or transmission with such private banker shall be preferred against the proceeds of any securities deposited by such private banker with the superintendent and against such assets as shall be shown by the books of such banker, or by other legal evidence, to have been derived from the investment of such deposits, or from the investment of any per-

manent capital segregated and set aside for employment in such private banker's business. The depositors and such person as shall have delivered money to such private banker for transmission, shall also share pro rata with general creditors in the proceeds of any other assets belonging to such private banker.

§ 377. Restrictions as to place of business. A private banker shall not do business, or be located in the same room with, or in a room connecting with any bank, trust company, savings bank, or national banking association.

Every private banker, subject to the provisions of this article, must give notice in writing to the superintendent of banks of his intention to change his place of business, or to establish an additional place of business at least thirty days before making such change or establishing such additional place of business.

§ 378. Reports required by superintendent; penalty for failure to make. Within ten days after service upon any private banker of a notice from the superintendent of banks, requiring such banker to report, every such private banker shall make a written report to the superintendent of banks which shall be in the form and contain the matters prescribed by such superintendent, and shall specifically state the items of permanent capital, specie and cash items, public and private securities, real estate and real securities, and such other items as the superintendent may require, and shall also state the amount of deposits, the payment of which, in case of insolvency, is prescribed by law, or otherwise, over other depositors. It shall state, in detail, the particular assets in which the permanent capital of such private banker is invested and where the usual business of such banker has been transacted. Every such report shall be verified by the oath of such private banker, and of each member of the partnership or unincorporated association, to the effect that the report is true and correct in all respects, to the best knowledge and belief of the person verifying the same. After the thirty-first day of December, nineteen hundred and eighteen, such report shall, within thirty days after it shall have been filed with the superintendent, be published by such private banker in one newspaper in the place where such private banker is engaged in business, or, if no such newspaper is published there, in a newspaper published nearest to such place.

Every such private banker shall also make such other special reports to the superintendent as he may from time to time re-

quire, in such form and on such dates, as may be prescribed by the superintendent, which reports shall, if required by the superintendent, be verified in such form as he may prescribe. If any such private banker shall fail to make any such report required by this section on or before the date mentioned for the making thereof, or shall fail to include therein any matter required by the superintendent, such private banker shall forfeit to the people of the state the sum of one hundred dollars for each day that such report shall be delayed, and for every day that such banker shall fail to report any such omitted matter, unless the time thereof shall have been extended by the superintendent.

§ 379. Jurisdiction and supervision of the superintendent of banks. On and after the first day of July, nineteen hundred and fourteen, every individual, association of individuals, partnership or joint-stock association, engaged in business as a private banker, or who may hereafter become engaged in the business of a private banker, and to whom the superintendent of banks has not issued the certificate of exemption provided for in this article, shall be subject to the same control, supervision, inspection, examination and liquidation to which incorporated banks and individual bankers are by the law now subject, and the superintendent shall have the same powers with reference to the liquidation of the affairs of such private banker as is conferred upon him, in the case of incorporated banks and individual bankers.

§ 380. Perjury. Any person who in any application for an authorization or exemption certificate under the provisions of this article, or in any report made thereunder, or on any examination or inquiry made pursuant to the provisions of this act, shall swear falsely as to the nature or value of his assets, or the amount of his liabilities, or in any other particular, and any person who in any affidavit made or in any examination or inquiry conducted under this act, shall swear falsely as to any statement of fact made by him, is guilty of perjury.

§ 381. Penalties. No individual, partnership or unincorporated association, to which this chapter is applicable, shall after the first of July, nineteen hundred and fourteen, engage in or continue in business in this state as a private banker, unless the superintendent of banks shall have issued an authorization or exemption certificate to him or them, as prescribed in this article. Any individual, partnership or unincorporated association violating the provisions of this section shall be guilty of a misdemeanor,

and shall upon conviction thereof be subject to a fine of one thousand dollars and imprisonment for not more than one year, or to both such fine and imprisonment.

§ 4. Chapter three hundred and forty-eight of the laws of nineteen hundred and ten, entitled "An act to amend the business law in relation to private banking and to repeal article ten thereof relating to ticket agents, as amended by chapter three hundred and ninety-three of the laws of nineteen hundred and eleven," is hereby repealed, but said repeal shall not affect any right already existing as accrued, or any liability incurred prior to the passage of this act.

§ 5. This act shall take effect immediately.

AN ACT to amend the penal law in relation to the falsification of books, petitions, reports or statements of private bankers and corporations subject to the banking law by the private bankers, or an officer, director, trustee, employee or agent of such private banker or corporation.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and four of the penal law is hereby amended to read as follows:

§ 304. Falsification of books, *petitions*, reports or statements of *private bankers and corporations* subject to the banking law, *by a private banker or an officer, director, trustee, employee or agent [thereof] of such private banker or corporation.*

Any private banker or any officer, director, trustee, employee or agent of any *private banker or corporation* to which the banking law is applicable who makes a false entry in any book, report, *petition* or statement of such private banker or corporation with intent to deceive any *private banker or any officer, director or trustee of such private banker or corporation* or examiner lawfully appointed to examine into [its] the condition or into any of [its] *the affairs of such corporation or private banker* or any public officer, office or board to which such *private banker or corporation* is required by law to report, or which has authority by law to examine into [its] the condition or into any of *the [its] affairs of such private banker or corporation*, or who, with like intent, wilfully omits to make a true entry of any material particular pertaining to the business of such *private banker or corporation* in

any book, report, *petition* or statement of such *private banker or corporation* made, written or kept by him or under his direction, is guilty of a felony.

§ 2. This act shall take effect immediately.

AN ACT to amend the penal law in relation to abstraction of money, funds or property, or misapplication of credit of private bankers.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and five of the penal law is hereby amended to read as follows:

§ 305. Abstraction or misappropriation of money, funds or property, or misapplication of credit of *private banker or corporations* to which the banking law is applicable, by *such private banker or* an officer, director, trustee, employee or agent [thereof] of *such private banker or corporation*. Any *private banker or any* officer, director, trustee, employee or agent of any *private banker or corporation* to which the banking law is applicable, who abstracts or wilfully misapplies any of the money, funds or property of such *private banker or corporation*, or wilfully misapplies *his or its* credit, is guilty of a felony. Nothing in this section shall be deemed or construed to repeal, amend or impair any existing provision of law prescribing a punishment for any such offence.

§ 2. This act shall take effect immediately.

REPORT

ON THE

Alien Insane in the Civil Hospitals

OF

NEW YORK STATE

SUBMITTED TO HIS EXCELLENCY, HONORABLE MARTIN H. GLYNN,
GOVERNOR OF THE STATE OF NEW YORK,
JANUARY 23, 1914

BY

SPEÑCER L. DAWES, M.D.
Special Commissioner on the Alien Insane

LEWIS R. PARKER,
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Counsel

ALBANY
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REPORT ON THE ALIEN INSANE IN THE CIVIL HOSPITALS OF NEW YORK STATE

*To His Excellency, Honorable Martin H. Glynn, Governor of the
State of New York:*

The following study, made by direction of Hon. John A. Dix, former governor of the State of New York, deals with one important part of the general problem of lessening the burden of insanity in our commonwealth, namely, the problem of the alien insane, and is based upon:

1. Public hearings at the State hospitals for the care of the insane.

2. Public hearings in the cities of Albany and New York, at which hearings were examined hospital superintendents, representatives of charitable organizations, private citizens, the chief examiner of the Bureau of Deportation and his assistants, the representatives of the various steamship companies which bring immigrants to this country, and representatives of foreign governments.

3. Statistics of the nativity and citizenship of every patient in our State hospitals obtained from a special census taken September 30, 1912.

4. Investigation with reference to the following topics:

I. Provision for and cost of maintenance of the insane in the State of New York.

II. Increase of insane patients in the State hospitals compared with increase in general population.

III. Nativity and citizenship of the insane in the State hospitals.

IV. Nativity, parentage and citizenship of admissions to the State hospitals.

V. Nativity and parentage of the insane and of the population in New York State.

VI. Nativity, parentage and insanity in New York State and the United States.

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VII. Time of aliens in United States before admission to the State hospitals.

VIII. Cost of caring for the alien insane.

IX. Some of the causes of existing conditions.

X. Eugenic effects.

XI. Attitude of other states.

XII. Suggestions received.

This commission was appointed to examine into the questions relating to the alien insane in the civil hospitals of the State of New York, in order to ascertain existing conditions, the causes thereof and to suggest remedies therefor.

While these problems of the alien insane are intimately connected with immigration it should be clearly borne in mind that the general subject of immigration is entirely without the province of this investigation.

The great benefits which this country has derived from immigration, the relation of immigration to social, industrial, economic and other problems and to phases of the public health other than the prevalence of mental diseases and kindred topics are not embraced within the scope of this inquiry.

The results of the investigation of the above mentioned topics are as follows:

I. PROVISION FOR AND COST OF MAINTENANCE OF THE INSANE IN THE STATE OF NEW YORK

The State of New York maintains sixteen hospitals of which fourteen, under the general management of the State Hospital Commission, are devoted exclusively to the care of the civil insane and two, under the control of the State Superintendent of Prisons, to the care of the criminal insane.

The valuation of the lands and buildings of the civil hospitals as appraised by the State Comptroller (Mohansic excepted) during the years 1911-12 and the personal property of these institutions, as estimated by the several superintendents in their reports of September 30, 1912, together with the number of patients under treatment on September 30, 1912, are shown in the following tables.

Civil Hospitals

STATE HOSPITAL	Number of patients	Value of real estate	Value of personal property
Utica.....	1,573	\$1,663,300	\$166,000
Willard.....	2,381	2,166,900	220,000
Hudson River.....	3,087	3,253,425	418,855
Middletown.....	2,020	1,682,300	135,000
Buffalo.....	2,025	3,030,100	120,000
Binghamton.....	2,327	2,675,956	300,000
St. Lawrence.....	1,988	2,910,000	159,710
Rochester.....	1,498	913,700	55,985
Gowanda.....	1,104	983,250	165,500
Mohansic.....	51	*169,155	33,937
Kings Park.....	3,815	3,423,900	282,260
Long Island.....	747	698,500	85,000
Manhattan.....	4,570	4,446,150	340,660
Central Islip.....	4,438	3,077,905	204,002
Total.....	31,624	\$31,094,541	\$2,686,909

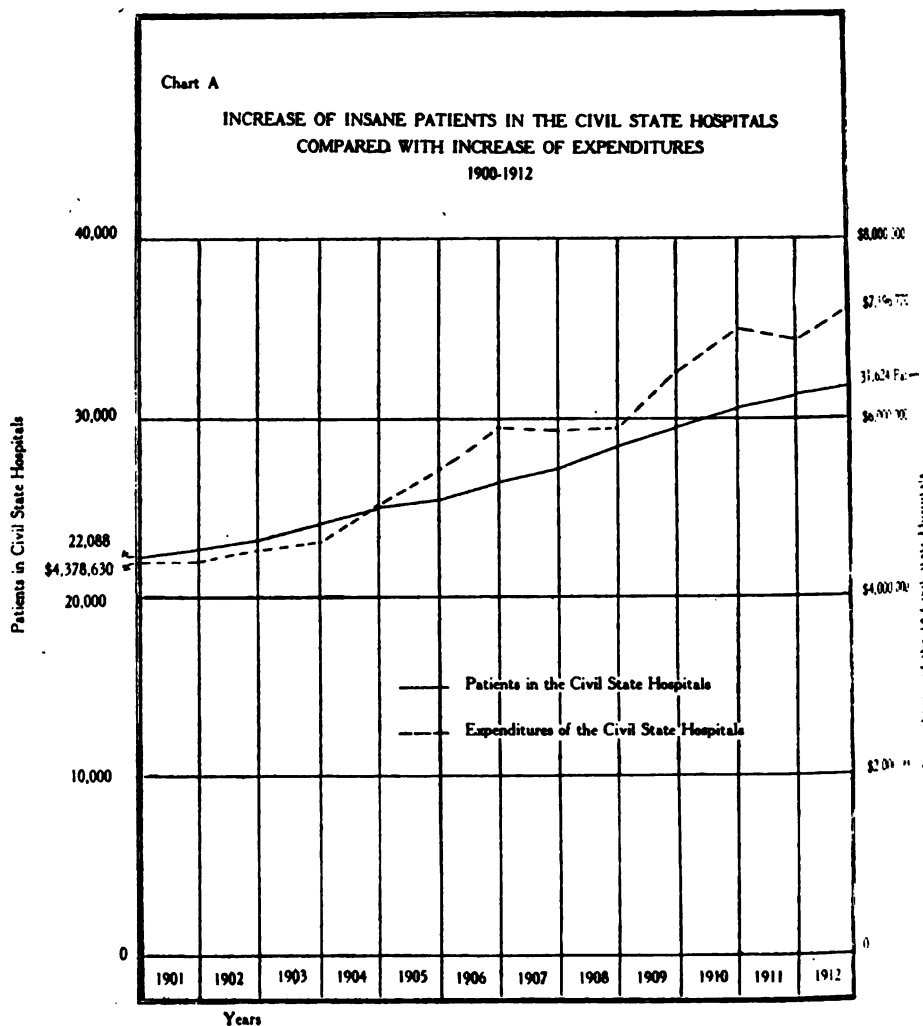
* As estimated by superintendent.

During the period from 1900 to 1912 the expenditures for additions and betterments to the various civil hospitals and for the maintenance of the insane were as follows:

Expenditures of the Fourteen Civil Hospitals, 1900-1912

YEAR	For maintenance	For new buildings, additional land, improvements, etc.
1900.....	\$3,766,615 49	\$612,014 72
1901.....	3,558,407 84	819,389 81
1902.....	3,722,346 55	807,431 87
1903.....	4,104,689 23	631,945 17
1904.....	4,402,380 32	670,651 19
1905.....	4,593,477 63	838,500 50
1906.....	4,769,343 68	793,877 84
1907.....	4,948,809 72	917,994 32
1908.....	5,100,890 11	803,761 44
1909.....	5,509,764 13	992,753 62
1910.....	5,659,942 76	1,320,658 95
1911.....	5,718,618 43	1,114,366 87
1912.....	6,240,882 01	955,887 56

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During the year ending September 30, 1912, alone, the cost to the State of New York for actual maintenance of the patients in its fourteen civil hospitals was \$6,240,882.01; for new buildings, additional lands, repairs, improvements, etc., \$955,887.56, and for general administration, including inspection, deportation of aliens and scientific research, \$163,766.86, making the huge total of \$7,360,536.43.

The enormous increase in annual expenditures shown in detail in the foregoing table was necessitated not alone by reason of the gradual rise in the cost of attendance and provisions in recent years, but also because the insane cared for in the State hospitals have increased.

II. INCREASE OF INSANE PATIENTS IN THE STATE HOSPITALS COMPARED WITH INCREASE IN GENERAL POPULATION

The total population of the State of New York, as given by the Federal Census Bureau was:

In 1890 —	6,003,174		
In 1900 —	7,268,894	.....Per cent of increase	21.1
In 1910 —	9,113,614	.....Per cent of increase	25.4
In 1912 —	*9,592,258	.....Per cent of increase	5.3
	Total (1890-1912)...	Per cent of increase	59.8

The insane in civil hospitals of New York State for the same period were:

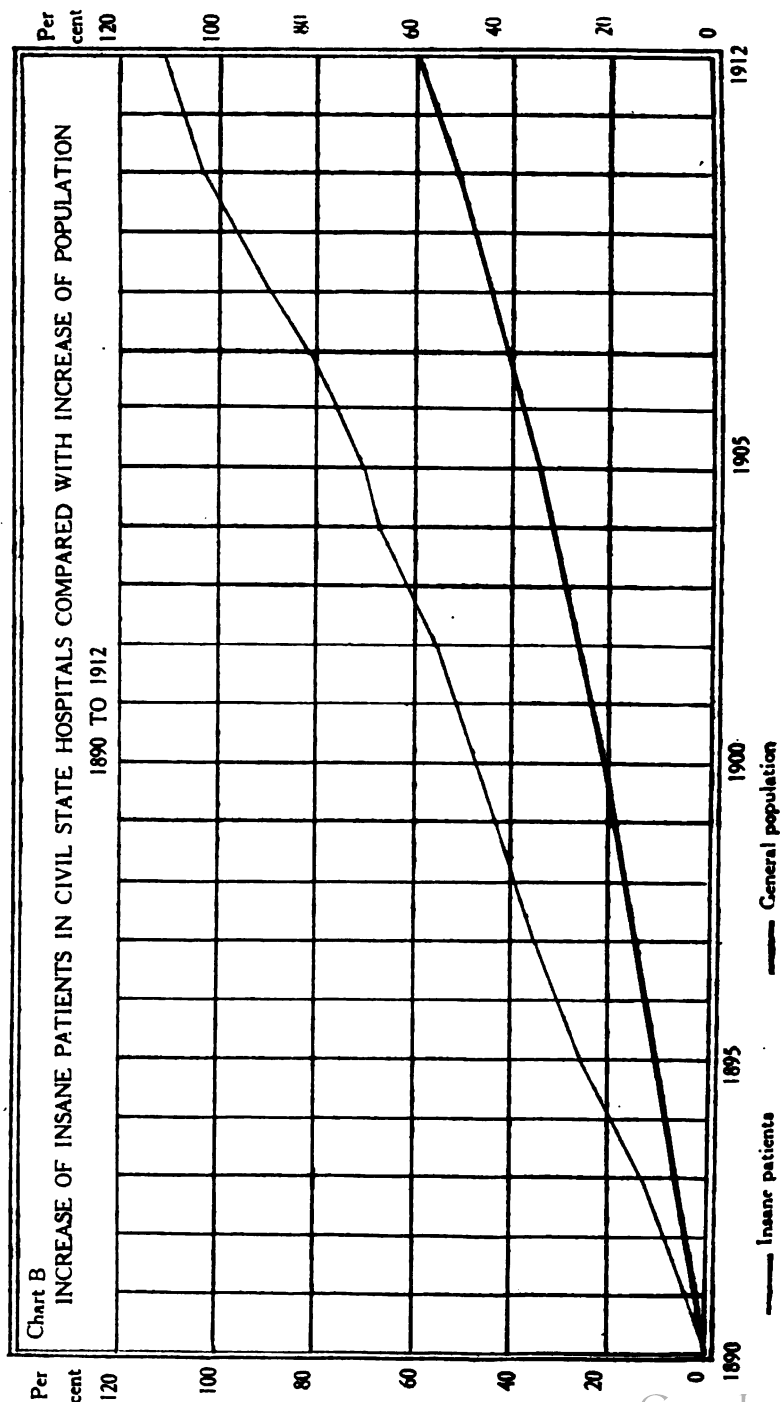
In 1890 —	14,952		
In 1900 —	22,088	.....Per cent of increase of insane	47.7
In 1910 —	30,445	.....Per cent of increase of insane	37.8
In 1912 —	31,624	.....Per cent of increase of insane	3.9
	Total	.....Per cent of increase of insane	111.5

Chart B shows the foregoing graphically.

The insane cared for in the civil hospitals have increased proportionately much more rapidly than has the general population of the State. This is readily apparent from the foregoing comparisons.

*Estimated.

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Taking the whole period from 1890 to 1912 into consideration, we find that the increase in insane population in the hospitals was 111.5 per cent, compared with 59.8 per cent in the general population of the State of New York. The State census of 1905 gave the population of the State as 8,067,308. The insane patients in the civil State hospitals in the same year numbered 25,518. Comparing these numbers with those for 1912, we find that the increase in general population has been 18.9 per cent, and in insane population, 23.9 per cent.

The ratio of insane in the civil hospitals of New York State to the population of the State shows that

In 1890 there were 249 insane for each 100,000 of population.

In 1900 there were 304 insane for each 100,000 of population.

In 1910 there were 334 insane for each 100,000 of population.

In 1912 (estimated) 329.7 insane for each 100,000 of population.

If we include in the calculation all the insane in New York State in State hospitals and private institutions together with the criminal insane we have the following:

In 1890 there were 266.6 insane for each 100,000 of population.

In 1900 there were 327.1 insane for each 100,000 of population.

In 1910 there were 358.3 insane for each 100,000 of population.

In 1912 (estimated) 354.2 insane for each 100,000 of population.

It is however but fair to state that it is believed that a more stable ratio of the insane to the population is becoming general as decreases in ratio have been observed in several states while in others for a number of years the increase has become much less marked.

On September 30, 1913, the total number of insane in the New York civil hospitals was 32,599, which was 975 more than the total hospital population of September 30, 1912. The per cent of increase from 1910 to 1912 was 3.9; the per cent of increase from 1912 to 1913 was 3.08.

This ratio of increase of the insane in the State hospitals, since

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1905, and particularly in 1912, has doubtless been largely decreased by the activity of the State Board of Alienists (now the Bureau of Deportation under the State Hospital Commission) in deporting and repatriating the alien insane and in returning to their homes in other states the nonresident insane.

The following table shows the work of this board since 1904:

Number of Aliens Deported and Repatriated and Nonresidents Returned, 1905-1912

	1905	1906	1907	1908	1909	1910	1911	1912	Total
<i>Aliens returned to other countries:</i>									
Deported by the U. S. immigration service.....	112	149	222	284	394	399	345	419	2,324
Repatriated at the expense of State.....	2	6	20	25	30	95	204	474	836
Repatriated at the expense of friends.....	16	14	28	64	65	119	235	278	819
Total.....	130	169	270	373	489	613	784	1,171	3,999
<i>Nonresidents returned to other States:</i>									
At expense of State.....	28	5	23	36	40	85	151	295	663
At expense of friends.....	12	18	29	60	46	166	191	287	809
Total.....	40	23	52	96	86	251	342	582	1,472
Total aliens deported and repatriated and nonresidents returned.....	170	192	322	469	575	864	1,126	1,753	5,471

Thus through the work of the State Board of Alienists during the years from 1905 to 1912, 3,999 insane aliens were deported or repatriated to other countries and 1,472 insane nonresidents returned to their homes in other states; a total of 5,471 insane persons removed from the State. In addition to these during the years 1905-08, inclusive, the State Commission in Lunacy (now the State Hospital Commission), removed from the State a number of aliens and nonresidents, directly through the individual hospitals without the aid of the State Board of Alienists, as follows:

	1905	1906	1907	1908	Total
Aliens.....	169	138	82	51	440
Nonresidents.....	78	75	118	78	349
Total.....	247	213	200	129	789

Combining these totals with those of the State Board of Aliens we have a grand total for the years 1905-12, inclusive, of 4,439 aliens deported and repatriated and 1,821 nonresidents returned, making altogether 6,260 insane persons removed from the State.

Chart C is a graphic representation of the yearly increase in aliens removed together with the resultant saving to the State. (See also page 44.)

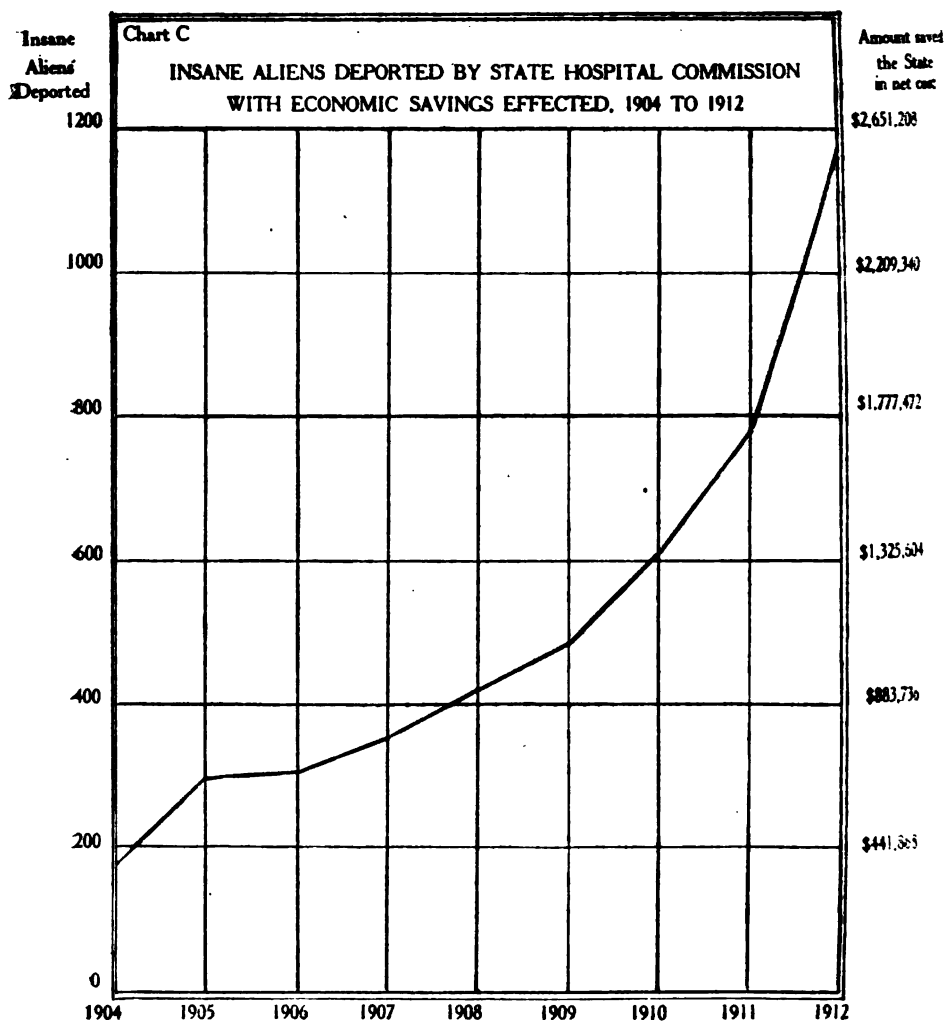
For the year ending September 30, 1913, the work of the Bureau of Deportation was as follows:

<i>Aliens returned to other countries</i>	
Deported by the U. S. immigration service.....	379
(A decrease of 40 from 1912.)	
Repatriated at the expense of State.....	292
(A decrease of 182 from 1912.)	
Repatriated at the expense of friends.....	194
(A decrease of 84 from 1912.)	
	865
<i>Nonresidents returned to other states</i>	
At expense of State.....	168
(A decrease of 127 from 1912.)	
At expense of friends.....	319
(An increase of 32 over 1912.)	
	487
Total aliens deported and repatriated and nonresidents returned	
	1,352
(A decrease of 401 from 1912.)	

It is apparent from the foregoing that the Bureau of Deportation sent from this State 306 less aliens in 1913 than in 1912, of which the chief loss, 266, was in the repatriates, and returned to other states 95 less nonresidents, a total of 401, or 22.8 per cent less in 1913 than in 1912.

Of the 1913 total of 1,352 aliens and nonresidents 986 had already become public charges in the various State hospitals, while the remaining 366 were removed from the psychopathic

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wards of Bellevue and Kings County hospitals and from various charitable institutions.

Of the 379 aliens deported in 1913 by the U. S. Immigration Service, 334 had actually become inmates of State hospitals, while the remaining 45 had been or were public charges at the time of their deportation in institutions supported in whole or in part by charity.

In 1912 the Bureau of Deportation issued medical certificates for the deportation of 511 aliens who had become public charges by reason of insanity from causes which existed prior to and at the time of their landing in this country, while in 1913 the number of medical certificates issued was 461, a loss of 51, or 10 per cent in 1913.

The Bureau of Deportation states that several factors are responsible for the decrease in the number of aliens repatriated by New York State in 1913 and gives as the most important reason the fact that for one entire month it was impossible to obtain any funds for repatriation and that there was considerable difficulty in obtaining funds for this purpose during two other months of the year.

III. *NATIVITY AND CITIZENSHIP OF THE INSANE IN THE STATE HOSPITALS

(See Table 1, p. 86)

In order to ascertain as definitely as possible the character of the insane population in the State hospitals with respect to nativity and citizenship, the following census was taken by the superintendents on September 30, 1912.

Insane in our civil hospitals on September 30, 1912, divided as to nativity:

Native-born, 17,896; per cent, 56.6.

Foreign-born, 13,728; per cent, 43.4.

Of the foreign-born 9,241, or 29.2 per cent of the total hospital population of 31,624, were aliens.

* The statistics of this report were prepared under the supervision of Dr. Horatio M. Pollock, the statistician of the New York State Hospital Commission. For his efficient services this commission is very greatly indebted.

Of the foreign-born patients, it was found that 4,487 had been naturalized. No evidence of the naturalization of the remaining 9,241 foreign-born patients was found, and these, because of their nativity, were necessarily classed as aliens.

The "unascertained," wherever mentioned in this report, are probably of foreign birth and should be considered aliens.

Until recent years the hospitals paid relatively little attention, at the time of admission, to the citizenship of the patients and consequently the records of some of the older cases in the hospitals are incomplete in this respect.

The results of the census, however, while not altogether satisfactory, undoubtedly give a fairly correct view of the status of the patient population.

The two metropolitan hospitals, Manhattan and Central Islip, which receive their patients mainly from Bellevue hospital, New York City, naturally have the largest number of alien patients. In 1912 in Manhattan State Hospital, out of a total of 4,570 patients only 2,044 were native-born, and of the 2,526 foreign-born patients only 708 were naturalized. At the same time in Central Islip 1,635 of the 4,438 patients were native-born, and 891 of the 2,803 foreign-born patients were naturalized. The aliens in Manhattan State Hospital constituted 39.8 per cent of the population, and in Central Islip 43.1 per cent.

The percentage of aliens in the up-State hospitals at this time ranged from 12.3 per cent in Utica to 28.7 per cent in Buffalo. Long Island State Hospital reports the second lowest percentage of aliens, namely 14.6 per cent.

Comparing the nativity of the sexes, we find in Table 1 that the foreign-born constituted 39 per cent of the males in the State hospitals and 47.3 per cent of the females. This is due in part to the fact that mortality of the females in the hospitals is less than that of the males, and to the further fact that the Bureau of Deportation has deported more males than females. A like difference is noted in the citizenship of the two sexes, 24.4 per cent of the males being aliens and 33.4 per cent of the females.

IV. NATIVITY, PARENTAGE AND CITIZENSHIP OF ADMISSIONS TO THE STATE HOSPITALS

For the purpose of ascertaining definitely the nativity, parentage and citizenship of the patients admitted to the civil State hospitals during the past eight years, a blank card was prepared calling for specific information concerning each patient admitted, as follows:

Nativity and Citizenship

..... State Hospital

MALE

FIRST ADMISSION

Name..... Identification No.....
 NATIVITY (country of birth) of patient
 NATIVITY (country of birth) of father.....
 NATIVITY (country of birth) of mother
 CITIZENSHIP OF PATIENT American Foreign
 IF NATURALIZED, HOW? By final papers By naturalization of parents
 CITIZENSHIP OF FATHER American Foreign
 IF NATURALIZED, HOW? By final papers By naturalization of parents
 WAS FATHER A CITIZEN AT TIME OF BIRTH OF PATIENT?
 TIME OF PATIENT IN U. S. BEFORE ADMISSIONYrs.Mos.
 TOTAL TIME OF PATIENT IN STATE.....
 HOSPITALS FOR INSANE..... Yrs.Mos.
 DATE OF ADMISSION 19....

To insure the separation of males from females and of first admissions from readmissions, the male cards were printed in black and the female in red, the first admission cards on white board and the readmission on salmon. A supply of these cards, together with a leaflet of explicit instructions, was forwarded to the superintendent of each hospital. After the cards were filled out from the records of the hospitals they were forwarded to the statistician of the State Hospital Commission for tabulation. The data compiled from these cards are set forth in Tables 2-16.

The new statistics show slight differences from those heretofore compiled by the New York State Hospital Commission, but the discrepancies are not important. The total of all admissions (in-

cluding readmissions) to the hospitals from 1905 to 1912, shows a difference of 28, the new statistics giving the number as 52,153 patients as against 52,182 patients in the old.

The discrepancies doubtless arose in preparing the new statistical cards from the individual histories at the State hospitals, exact distinction not being made in every instance between first admissions and readmissions — a difficult matter in some cases — and as to patients transferred from one hospital to another. For some years past voluntary patients have been admitted to the State hospitals and later some of these voluntary patients have been committed thereto. In the statistics of the Commission some of those thus committed were counted twice, which accounts for a part of the above mentioned discrepancies.

NATIVITY OF FIRST ADMISSIONS TO THE STATE HOSPITALS 1905-12

(See Table 2, page 88)

Table 2 gives the nativity of the first admissions to the fourteen civil State hospitals for the eight years beginning October 1, 1904, and ending September 30, 1912. According to this tabulation, a total of 43,515 patients were admitted, of which 23,267, or 53.5 per cent, were native-born, and 20,121, or 46.2 per cent, foreign-born. The nativity of 127, or .3 per cent, was unascertained. Of the 23,009 males, 12,579, or 54.7 per cent, were native-born; 10,349, or 45 per cent, were foreign-born; while the nativity of 81, or .3 per cent, was unascertained. Of the 20,506 female first admissions, 10,688, or 52.1 per cent, were native-born; 9,772, or 47.7 per cent, were foreign-born; the nativity of 46, or .2 per cent, being unascertained. This .2 per cent was probably foreign-born and should be treated as such.

From these figures it will be seen that while the number of male admissions exceeded the female admissions by 2,503, the excess of foreign-born males over foreign-born females was only 577.

Comparing the nativities of the admissions of the several years, it is noted that there is a gradual decrease in the native-born percentages and a corresponding increase in the foreign-born percentages.

Slight, however, as is the increase in the percentage of the foreign-born if it be continued at its present rate for about ten years longer the foreign-born first admissions will equal in numbers the native-born.

The percentages for the various years appear as follows:

Nativity of First Admissions

YEAR	Per cent of native- born	Per cent of foreign- born
1905.....	55.3	44.4
1906.....	54.3	45.2
1907.....	53.8	46.0
1908.....	51.8	47.9
1909.....	53.9	45.9
1910.....	53.7	46.0
1911.....	52.6	47.2
1912.....	52.9	46.9

The highest percentage of foreign-born patients was admitted in 1908. In that year the number of foreign-born females admitted exceeded by one those of native birth.

Comparing the nativity of the first admissions for 1912 with the nativity of the patients in the hospitals on September 30, 1912, we find that the percentage of foreign-born among the admissions exceeded that among the patients in the hospitals by 3.5 per cent. This difference is undoubtedly accounted for by the deportations and repatriations of aliens previously referred to.

NATIVITY OF READMISSIONS

(See Table 3, page 90)

Table 3 gives the nativity of the readmissions to the civil State hospitals for the past eight years. The table shows that during this period 8,643 patients were readmitted, of which 5,561 were native-born; 3,075 foreign-born; and 7 of unascertained nativity. The percentages of native and foreign-born were 64.3 and 35.6 respectively. It will be noted that the readmissions have a much higher percentage of native patients than the first admissions. This difference is largely accounted for by the fact

that the foreign-born patients have fewer friends in this country, and consequently must reach a more independent status before being discharged from the hospital, or in other words, relatively fewer relapsed cases would occur among the foreign-born, as fewer doubtful cases of this class would be discharged. It should also be stated that many of the readmissions are periodically admitted and therefore appear several times in the count. The difference is also due to the fact that many cases of relapsing psychoses were included among those deported or repatriated after their first admission.

Comparing the percentages of native and foreign-born readmissions during the several years, we have:

Nativity of Readmissions

YEAR	Per cent of native- born	Per cent of foreign- born
1905	64.0	35.9
1906	64.3	35.6
1907	66.7	33.2
1908	65.6	34.4
1909	66.7	33.2
1910	64.0	35.9
1911	62.6	37.3
1912	62.7	37.2

The above variations in nativity percentages in the several years are very slight but, like the percentages of the nativity of first admissions, show a gradual decrease in native-born and a gradual increase in foreign-born.

In the readmissions as in the first admissions, the female foreign-born patients exceed the male foreign-born patients but by a larger percentage, the difference in readmissions being 8.2 per cent and in first admissions 2.7 per cent.

NATIVITY OF ALL ADMISSIONS

(See Table 4, page 92)

The nativity of all admissions to the State hospitals for the eight years from 1905 to 1912 is given in Table 4. Of the 52,158

patients admitted 28,828, or 55.3 per cent, were native-born; 25,196, or 44.5 per cent, were foreign-born; while the nativity of 134, or .2 per cent, was unascertained.

The percentages of native and foreign-born for the several years were as follows:

Nativity of All Admissions

YEAR	Per cent of native- born	Per cent of foreign- born
1905.....	56.6	43.1
1906.....	55.8	43.7
1907.....	55.5	44.3
1908.....	53.7	46.0
1909.....	56.0	43.8
1910.....	55.6	44.2
1911.....	54.5	45.3
1912.....	54.8	45.0

PARENTAGE OF FIRST ADMISSIONS

(See Tables 5 and 6, pages 94, 96)

Table 5 gives the parentage of the first admissions to the State civil hospitals for the insane for the years of 1905-12. Of the 23,267 native-born patients, 11,888 were of native parentage; 2,346 of mixed parentage; 8,306 of foreign parentage; and 727 of unknown parentage. Of the 20,121 foreign-born patients, 26 were of native parentage; 108 of mixed parentage, 19,709 of foreign parentage; and 278 of unknown parentage.

Combining in Table 6 the native, foreign-born and unascertained first admissions enumerated in Table 5, we find 11,914, or 27.4 per cent, of native parentage; 2,454, or 5.7 per cent, of mixed parentage; 28,015, or 64.3 per cent, of foreign parentage; and 1,132, or 2.6 per cent, of unknown parentage. Adding the percentage of patients with mixed parentage to that of patients of foreign parentage, we have a total of 70 per cent of first admissions partially or wholly of foreign stock. Tabulating the percentages of patients of native, mixed and foreign parentage admitted during the several years, the following results are shown:

Parentage of First Admissions

YEAR	Per cent of native parentage	Per cent of mixed parentage	Per cent of foreign parentage	Per cent of unascertained parentage
1905.....	28.3	5.0	62.9	3.8
1906.....	27.7	5.7	62.9	3.7
1907.....	28.3	5.5	63.4	2.8
1908.....	26.6	5.4	65.3	2.7
1909.....	27.8	5.5	64.6	2.1
1910.....	26.8	5.9	65.3	2.0
1911.....	27.3	5.6	65.2	1.9
1912.....	26.9	6.4	64.7	2.0

This is similar to the situation seen in the nativity summaries — a gradual decrease in the native parentage percentages accompanied by a gradual increase in the foreign parentage percentages.

PARENTAGE OF READMISSIONS

(See Tables 7 and 8, pages 98, 100)

Table 7 shows the parentage of readmissions for the years 1905 to 1912, inclusive. Of the 5,561 native-born readmissions, 2,888 were of native parentage; 607 of mixed parentage; 1,950 of foreign parentage; and 86 of unknown parentage. Of the 3,075 foreign-born readmissions, 3 were of native parentage; 23 of mixed parentage; 3,021 of foreign parentage; and 28 of unknown parentage. The nativity of 7 was unascertained.

Table 8 combines all the readmissions of Table 7 according to parentage. Referring to this table, we find that 2,891, or 33.4 per cent, of the readmissions were of native parentage; 630, or 7.3 per cent, were of mixed parentage; 5,001, or 57.9 per cent, were of foreign parentage; and 121, or 1.4 per cent, were of unascertained parentage.

The variations in the percentages of the readmissions during the eight years under consideration are shown by the following tabulation:

Parentage of Readmissions

YEAR	Per cent of native parentage	Per cent of mixed parentage	Per cent of foreign parentage	Per cent of unascertained parentage
1905	34.8	7.7	55.6	1.9
1906	32.3	6.5	59.0	2.2
1907	34.4	7.1	56.0	2.5
1908	35.6	6.0	57.5	0.9
1909	37.0	7.4	53.8	1.8
1910	32.9	8.6	57.5	1.0
1911	29.8	7.9	61.8	0.5
1912	32.9	6.6	59.3	1.2

Here again the native percentages slowly decrease while the foreign increase.

PARENTAGE OF ALL ADMISSIONS

(See Tables 9 and 10, pages 102, 104)

Tables 9 and 10 give the parentage of all admissions for the years 1905 to 1912.

As shown by Table 9 of the 28,828 native-born patients, 14,776 were of native parentage; 2,953 of mixed parentage; 10,286 of foreign parentage; and 813 of unknown parentage. Of the 23,196 foreign-born patients, 29 were of native parentage; 131 were of mixed parentage; 22,730 of foreign parentage; and 306 of unknown parentage.

Combining in Table 10, according to parentage, all the admissions set forth in Table 9, we find that of the total admissions, 14,805, or 28.4 per cent, were of native parentage; 3,084, or 5.9 per cent, were mixed parentage; 33,016, or 63.3 per cent, were of foreign parentage; and 1,253, or 2.4 per cent, of unknown parentage.

Comparing the percentages of patients with respect to parentage during the eight years, we have:

Parentage of All Admissions

YEAR	Per cent of native parentage	Per cent of mixed parentage	Per cent of foreign parentage	Per cent of unascertained parentage
1905.....	29.3	5.3	61.8	3.6
1906.....	28.3	5.8	62.4	3.5
1907.....	29.1	5.7	62.4	2.8
1908.....	27.8	5.5	64.2	2.5
1909.....	29.3	5.8	62.8	2.1
1910.....	27.8	6.5	63.9	1.8
1911.....	27.8	6.0	64.6	1.6
1912.....	28.0	6.5	63.6	1.9

CITIZENSHIP OF FIRST ADMISSIONS

(See Table 11, page 106)

Table 11 gives the citizenship of the first admissions to the State hospitals for the years 1905-12. With respect to citizenship, five classes are distinguished, as follows:

"Citizens by birth," which includes all native-born patients.

"Citizens by parentage," which includes patients born in foreign countries of parents who were American citizens at the time of the birth of the patient.

"Citizens by naturalization," which includes all foreign-born patients who have been naturalized in any way since coming to this country.

"Aliens," which includes all foreign-born patients who were not citizens by parentage and who have not been naturalized since coming to this country.

"Unascertained," which includes those patients concerning whose citizenship nothing definite could be determined.

Of the total first admissions, 23,267, or 53.5 per cent, were citizens by birth; 36, or .1 per cent, were citizens by parentage; 4,227, or 9.7 per cent, were citizens by naturalization; 13,913, or 31.9 per cent, were aliens; and 2,072, or 4.8 per cent, were of unascertained citizenship.

The percentages of the different classes admitted each year are shown by the following tabulation:

Citizenship of First Admissions

YEAR	Per cent by birth	Per cent by parentage	Per cent by natur- alization	Per cent aliens	Per cent unascertained
1905.....	55.3	0.2	7.1	28.4	9.0
1906.....	54.3	0.1	8.6	31.4	5.6
1907.....	53.8	0.1	10.9	32.6	2.6
1908.....	51.8	0.1	10.4	33.9	3.8
1909.....	53.9	0.1	8.7	33.4	3.9
1910.....	53.7	0.1	8.5	33.0	4.7
1911.....	52.6	0.1	10.0	32.9	4.4
1912.....	52.9	0.1	12.8	29.3	4.9

Here there is a slow decrease in the percentages of the native-born citizens with a rapid increase in the percentages of the naturalized citizens. The alien percentages show slow increases until 1912, when there is a sudden drop. This latter is probably explained by the fact that 370 of the aliens deported and non-residents removed from this State in 1912 never became patients in our State hospitals.

CITIZENSHIP OF READMISSIONS

(See Table 12, page 108)

Table 12 shows the citizenship of readmissions to the State hospitals for the years 1905-12. Of the total readmissions, 5,561, or 64.3 per cent, were citizens by birth; 5, or .1 per cent, were citizens by parentage; 715, or 8.3 per cent, were citizens by naturalization; 1,995, or 23.1 per cent, were aliens; and 367, or 4.2 per cent, were of unascertained citizenship. The percentage of aliens among the readmissions is considerably less than among the first admissions. This corresponds with the nativity of the two classes of admissions. A comparison of the percentages of readmissions of the several years with respect to citizenship shows the following:

Citizenship of Readmissions

YEAR	Per cent by birth	Per cent by parentage	Per cent by natur- alization	Per cent aliens	Per cent unascertained
1905.....	64.0	.....	7.1	22.2	6.7
1906.....	64.3	0.2	8.7	22.5	4.3
1907.....	66.7	.....	8.0	21.3	4.0
1908.....	65.6	.....	9.8	20.7	3.9
1909.....	66.7	0.1	6.6	20.9	5.7
1910.....	64.0	.....	6.7	25.4	3.9
1911.....	62.6	0.1	8.8	25.5	3.0
1912.....	62.7	.....	9.9	23.8	3.6

Here again is a slight decrease in the percentages of the native-born, with increases in those of the naturalized citizens and aliens. As 4,439 aliens were deported or repatriated from this State from 1905 to 1912 the increase in the alien percentage could hardly have been expected.

CITIZENSHIP OF ALL ADMISSIONS

(See Table 13, page 110)

Table 13 gives the citizenship of all admissions for the years 1905-12. Of the total admissions, 28,828, or 55.3 per cent, were citizens by birth; 41, or .1 per cent, were citizens by parentage; 4,942, or 9.4 per cent, were citizens by naturalization; 15,908, or 30.5 per cent, were aliens; and 2,439, or 4.7 per cent, were of unascertained citizenship.

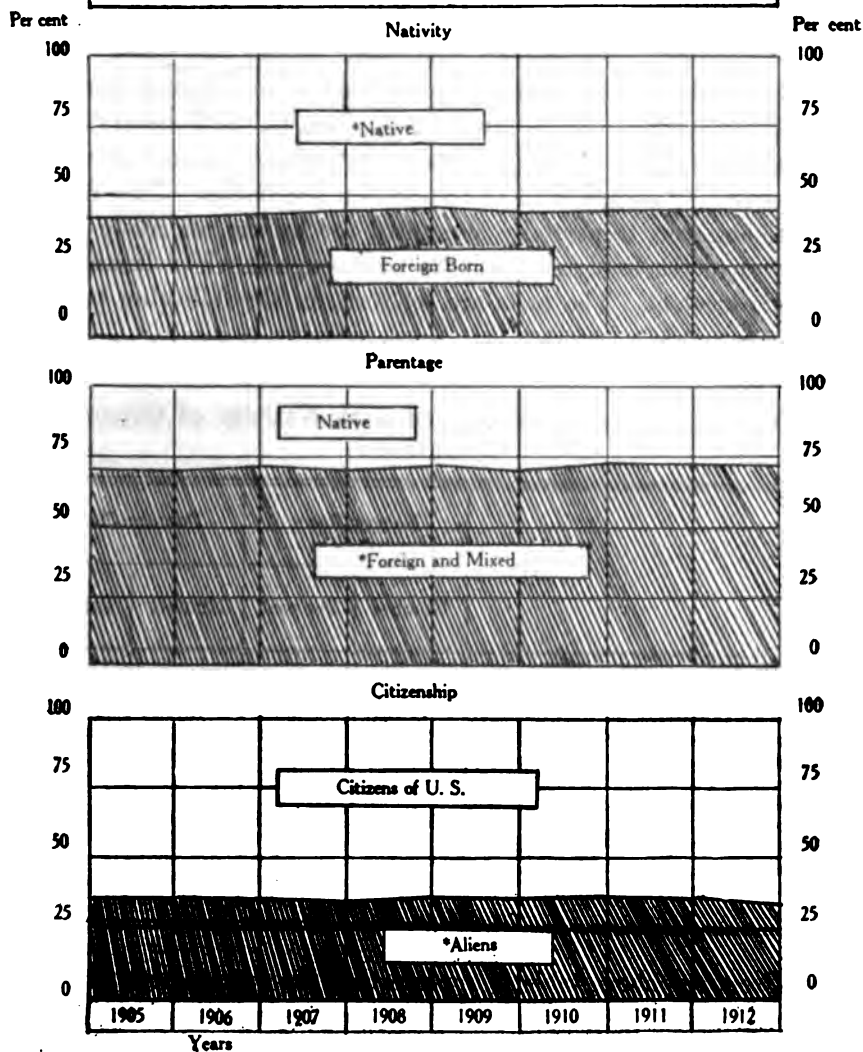
Comparing the percentages shown of the different classes for each of the eight years, we have the following:

Citizenship of All Admissions

YEAR	Per cent by birth	Per cent by parentage	Per cent by natur- alization	Per cent aliens	Per cent unascertained
1905.....	56.6	0.1	7.1	27.5	8.7
1906.....	55.8	0.2	8.6	30.0	5.4
1907.....	55.5	0.1	10.6	31.0	2.8
1908.....	53.7	0.1	10.3	32.1	3.8
1909.....	56.0	0.1	8.4	31.4	4.1
1910.....	55.6	.....	8.2	31.6	4.6
1911.....	54.5	0.1	9.7	31.5	4.2
1912.....	54.8	0.1	12.2	28.3	4.6

Chart D

NATIVITY, PARENTAGE AND CITIZENSHIP OF ALL PATIENTS
ADMITTED TO THE CIVIL STATE HOSPITALS
1905-1912



*Includes unascertained cases

V. NATIVITY AND PARENTAGE OF THE INSANE AND OF THE POPULATION IN NEW YORK STATE

NATIVITY OF INSANE COMPARED WITH NATIVITY OF GENERAL POPULATION

A comparison of the percentages of native and foreign-born among the insane in the hospitals on September 30, 1912, and of the native and foreign-born admissions during the years 1905-12, and for the year 1910, with the native and foreign-born in the general population of the State as given by the Federal census of 1910, shows that the percentage of foreign-born in the insane population is higher than in the general population. This difference, however, is partially accounted for by the relatively large number of the foreign-born in the age groups in which insanity is most prevalent. The facts are set forth in the following tabulation:

Nativity of Insane Compared with Nativity of General Population

	NATIVE-BORN		FOREIGN-BORN	
	Number	Per cent	Number	Per cent
Insane in hospitals, September 30, 1912, (Table 1).....	17,896	56.6	13,728	43.4
First admissions, 1905-1912 (Table 2).....	23,267	53.5	20,121	46.2
Readmissions, 1905-1912 (Table 3).....	5,561	64.3	3,075	35.6
All admissions, 1905-1912 (Table 4).....	28,828	55.3	23,196	44.5
General population of the State, Census of 1910.....	6,365,603	69.8	2,748,011	30.2
First admissions, 1910 (Table 2).....	3,151	53.7	2,701	46.0
Readmissions, 1910 (Table 3).....	822	64.0	462	35.9
All admissions, 1910 (Table 4).....	3,973	55.6	3,163	44.2

From the above table it appears that the foreign-born in 1910 constituted 30.2 per cent of the entire population of the State, while the foreign-born insane constituted 43.4 per cent of the patients in the State hospitals September 30, 1912; 46.2 per cent

of the first admissions; 35.6 per cent of the readmissions; and 44.5 per cent of all admissions from 1905 to 1912.

If the percentages of the first admissions, of the readmissions and of all admissions for 1910 are used as the basis for comparison with the census figures instead of the corresponding percentages covering the eight years from 1908 to 1912, the result shows but little variation from that above stated, as the respective percentages are practically identical.

The census taken by the federal government as of December 31, 1903, gives the number of foreign-born patients in the New York civil hospitals for the insane as 11,258 or 46.2 per cent of the total. This is 2.8 per cent higher than the percentage of September 30, 1912, as above stated.

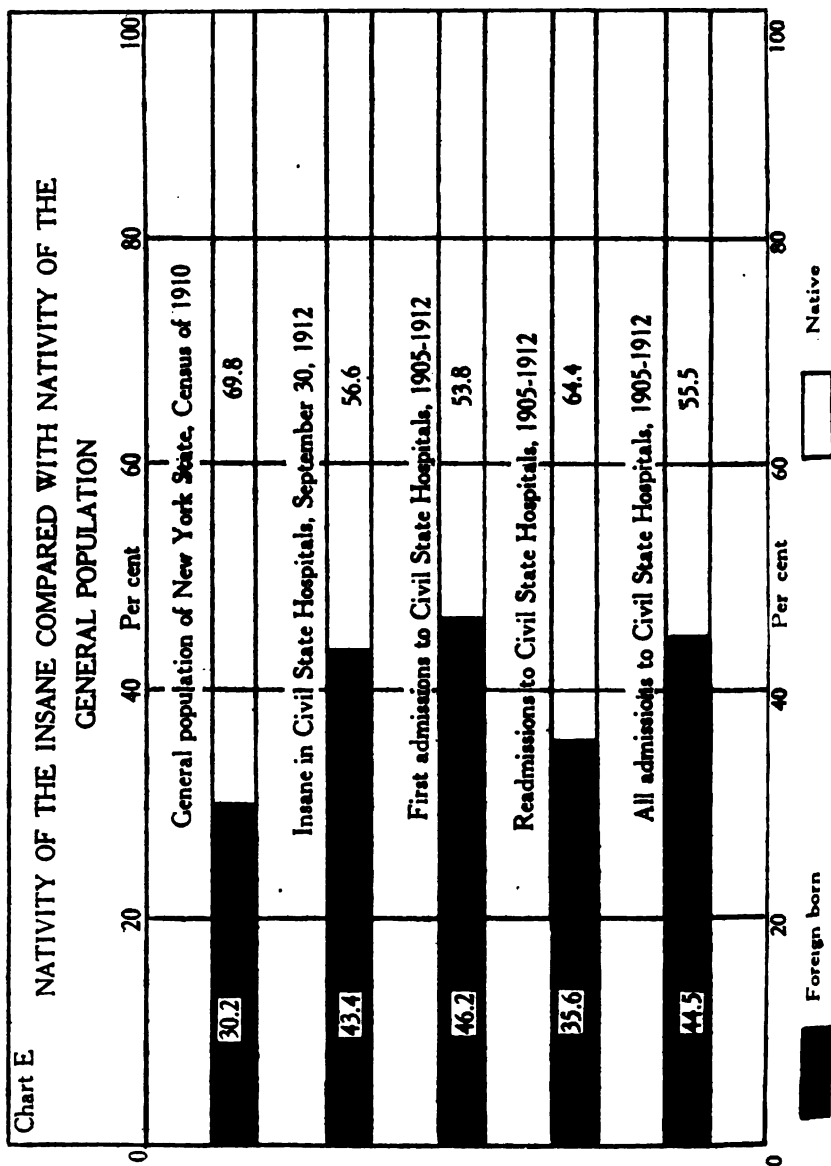
Two enumerations taken by New York State in February, 1909, and February, 1912, found the foreign-born in its civil insane hospitals to number 12,253, or 42.9 per cent and 13,163, or 41.9 per cent on the respective dates. The percentage of the first enumeration varies but .5 per cent and of the second 1.5 per cent from the 43.4 above given for September 30, 1912.

COMPARISON OF THE PARENTAGE OF THE INSANE WITH THAT OF THE GENERAL WHITE POPULATION

The first of the two following tabulations deals with the parentage of all admissions to the New York State hospitals whose parentage was ascertained and the second only with the native-born admissions whose parentage was ascertained.

Comparison with the white population is necessitated by reason of the inaccessibility, at this time, of census tabulations on the parentage statistics of the entire population. This, however makes but little difference as, according to the U. S. census of 1910 those other than whites numbered but 146,769 in New York State out of a total State population of 9,113,614.

1. Comparison of the parentage of admissions (excluding those of unknown parentage) to the New York State hospitals, 1905-1912 with that of the general white population of the State.



	Per cent native parentage	Per cent foreign or mixed parentage
First admissions, 1905-1912 (Table 6).....	27.4	70.0
Readmissions, 1905-1912 (Table 8).....	33.4	65.2
All admissions, 1905-1912 (Table 10).....	28.4	69.2
General white population of the State, U. S. Census of 1910...	35.4	62.9

2. Comparison of the parentage of the native-born admissions (excluding those of unknown parentage) with that of the native-born white population of the state.

	Per cent native- born of native parentage	Per cent native- born of foreign or mixed parentage
First admissions, 1905-1912 (Table 5).....	52.7	47.3
Readmissions, 1905-1912 (Table 7).....	52.7	47.3
All admissions, 1905-1912 (Table 9).....	52.7	47.3
Native white population of the State, U. S. Census of 1910...	51.8	48.2

The first tabulation shows a considerably less percentage of those of native parentage and a considerably greater percentage of those of foreign or mixed parentage among the first admissions and all admissions to the New York State hospitals than there was among the white population of the State in 1910.

This indicates that there is a relatively greater proportion of foreign parentage among those admitted to the hospitals than in the State at large; in other words that foreign parentage contributes more than its share to our hospital population.

The reasons for the higher percentage, in the first tabulation, of those of native parentage among the readmissions are the same as those heretofore stated concerning the nativity of the readmissions.

From the second tabulation, which deals only with the native-born, it is apparent that the native-born element in the New York State hospital population is practically identical in parentage

with that of the native white population of the State in 1910, the difference being .9 per cent.

United States census statistics are not available from which comparisons of the foreign-born and aliens can be made.

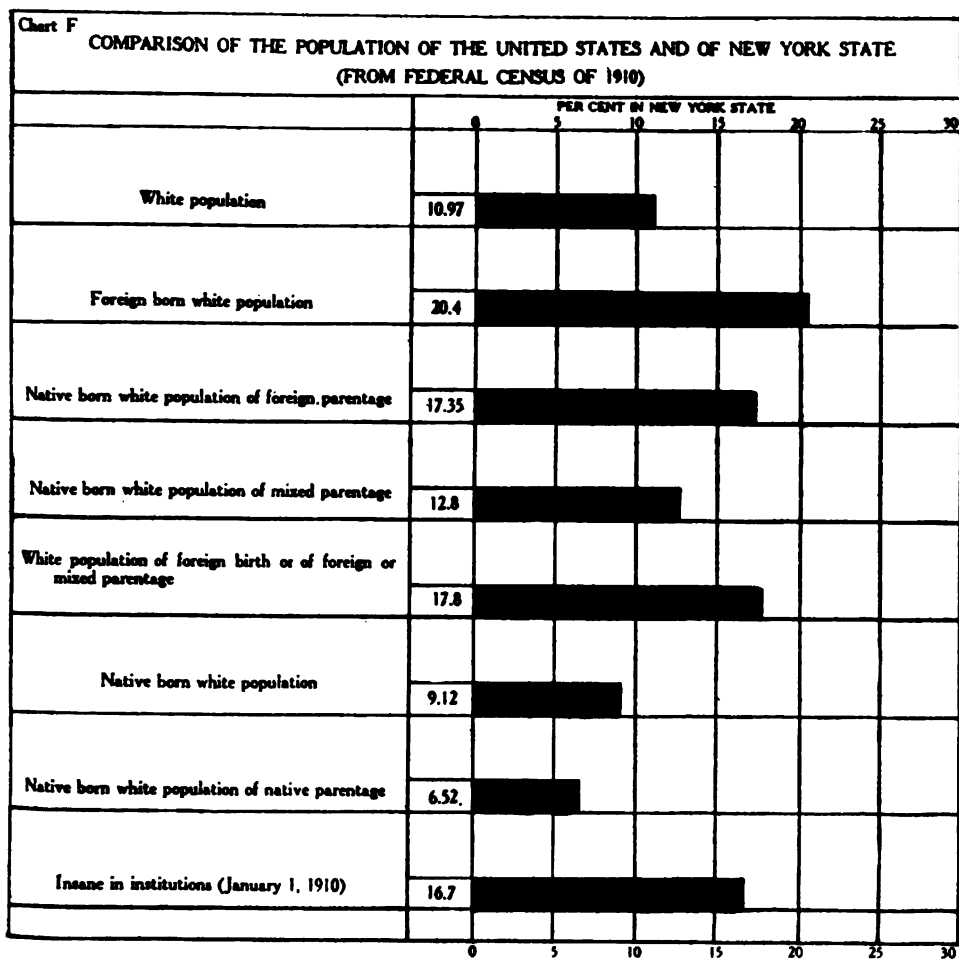
VI. NATIVITY, PARENTAGE AND INSANITY IN NEW YORK STATE AND THE UNITED STATES

COMPARISON OF THE POPULATION OF NEW YORK STATE WITH THAT OF THE UNITED STATES WITH RESPECT TO NATIVITY, PARENTAGE AND INSANITY

As New York State contains the principal Atlantic seaport, a large proportion of the foreigners coming to this country enter the State, and of these relatively a large number remain in the State. During 1912, 28.5 per cent of all the immigrants who came to this country announced their intention of residing in this State. The following tabulation shows the foreign element in New York State to be relatively much larger than in the United States as a whole:

Comparisons of the Population of the United States and of New York State. (From Federal Census of 1910)

	UNITED STATES	NEW YORK STATE	
	Number	Number	Per cent of United States
Total population.....	91,972,266	9,113,614	9.90
Total white population.....	81,731,957	8,966,845	10.97
Total foreign-born white population.....	13,345,545	2,729,272	20.40
Total native-born white population of foreign parentage.....	12,916,311	2,241,837	17.35
Total native-born white population of mixed parentage.....	5,981,526	765,411	12.80
Total white population of foreign birth or of foreign or mixed parentage.....	32,243,382	5,736,520	17.80
Total native-born white population.....	68,386,412	6,237,573	9.12
Total native-born white population of native parentage.....	49,488,575	3,230,325	6.52
Insane in institutions (January 1, 1910)....	187,454	31,265	16.70



	PER CENT OF TOTAL POPULATION	
	United States	New York State
Foreign-born white population.....	14.5	29.9
Native-born white population of foreign or mixed parentage..	20.5	33.0
Total white population of foreign birth or of foreign or mixed parentage.....	35.0	62.9
Total native-born white population of native parentage....	53.8	35.4

	PER CENT OF TOTAL WHITE POPULATION	
	United States	New York State
Foreign-born white population.....	16.3	30.4
Native-born white population of foreign or mixed parentage..	23.1	33.5
Total white population of foreign birth or of foreign or mixed parentage.....	39.4	63.9
Total native-born white population of native parentage....	60.5	36.0

From the above tables it appears that while New York has but 9.9 per cent of the total population of the United States it has 20.4 per cent of the total foreign-born white population, and 17.8 per cent of the total white population of foreign birth or of foreign or mixed parentage. While it contains 10.97 per cent of the total white population it has but 6.52 per cent of the total native-born white population of native parentage. The insane in institutions in New York State comprise 16.7 per cent of the total insane in institutions in the United States.

Comparing the percentages of the foreign-born whites we find that while in the United States but 14.5 per cent of the total

population and 16.3 per cent of the total white population are foreign-born, in New York State the corresponding percentages of the foreign-born are 29.9 per cent and 30.4 per cent.

The percentages of native-born white population of foreign or mixed parentage in the total population and total white population of the United States are respectively 20.5 and 23.1, and in New York State are respectively 33 and 33.5.

The corresponding percentages of the total white population of foreign birth or of foreign or mixed parentage in the United States are 35 and 39.4 and in New York State 62.9 and 63.9.

In the United States at large the native-born white population of native parentage comprises 53.8 per cent of the total population and 60.5 per cent of the total white population, while in New York State the native-born whites of native parentage compose but 35.44 per cent of the total population of the State and 36 per cent of its total white population.

The data of the Federal census of 1910 concerning the nativity of the foreign-born insane in institutions in the United States are not available, but taking the figures from the Federal census report of 1904 we note that in that year there were in all institutions (civil, criminal and private) in New York State 11,858 foreign-born insane patients, while in the whole country there were only 47,078. It appears, therefore, that in 1904 New York State was caring for 25.2 per cent of the foreign-born insane of the whole country. Inasmuch as the foreign-born element in New York State has increased since 1904 relatively much more rapidly than the native-born element, it is probable that the proportion of the foreign-born insane patients of the whole country cared for by the State of New York has likewise increased.

As it appears from Table 11, giving the citizenship of first admissions to the State hospitals for the insane, that 13,913, or 31.9 per cent of all the first admissions to the hospitals from 1905 to 1912 were aliens, it is evident that the State of New York receives more than its just share of the alien insane in this country.

It is to be regretted that statistics of the citizenship of the in-

sane in institutions throughout the whole country are not available. However this may be remedied before many years as already statistics similar to those given herein are being prepared by several other States at the suggestion of this Commission.

VII. TIME OF ALIENS IN UNITED STATES BEFORE ADMISSION TO THE STATE HOSPITALS

(See Table 14, page 112)

Table 14 shows the time in the United States before admission to the New York civil hospitals of the first admissions from 1905 to 1912 who were aliens or of unascertained citizenship.

Classified with respect to time, four groups are distinguished, as follows: Those admitted to the hospitals within three years after entry into the United States, those admitted more than three years but within five years after entry into the United States, those admitted more than five years after entry into the United States, and those whose time of entry into the United States could not be ascertained.

Of the 15,985 patients who were either aliens or of unascertained citizenship, 2,831, or 17.7 per cent, were admitted to the New York State hospitals within three years after entry into the United States; 1,483, or 9.3 per cent, were admitted more than three years but within five years after entry into the United States; 10,271, or 64.3 per cent, were admitted more than five years after entry into the United States. The time of entry into the United States of 1,400, or 8.7 per cent, of the first admissions, could not be ascertained.

A tabulation of the percentages of each of the four groups, classified with respect to time in the United States before admission, shows the following results:

Per Cent Distribution According to Time in United States Before Admission to New York State Hospitals of Aliens and of Patients Whose Citizenship is Unascertained, 1905-1912.

FIRST ADMISSIONS

YEARS	Within 3 years after entry into the United States	More than 3 years but within 5 years after entry into the United States	More than 5 years after entry into the United States	Time unascertained
1905.....	14.7	6.8	67.3	11.2
1906.....	18.7	8.2	63.8	9.3
1907.....	21.8	8.6	58.7	10.9
1908.....	20.1	9.2	60.3	10.4
1909.....	18.1	9.6	64.2	8.1
1910.....	15.5	10.8	65.8	7.9
1911.....	14.9	11.5	66.4	7.2
1912.....	18.1	8.7	67.5	5.7

As five years must elapse after the coming of a foreigner to this country before he can become a naturalized citizen, it is evident that at least 2,352 of the male first admissions entered the State hospitals during the period under consideration before having had an opportunity to become citizens. Of the others included in Table 14 at least 5,317 males were in this country long enough to obtain citizenship papers but so far as could be ascertained, did not take advantage of their opportunity.

Table 15 gives the time in the United States before readmission to the New York State hospitals of aliens and of patients whose citizenship is unascertained readmitted to the hospitals between 1905-12. It is probable that several of these readmissions had been in a hospital in a foreign country before coming to the United States, but the number of such cases could not be ascertained. Of the readmissions 115, or 5 per cent, of the patients were readmitted to the State hospitals within three years after entry into the United States; and 113, or 4.8 per cent, more than three but within five years after entry; while 1,973, or 83.4 per cent, were readmitted more than five years after their entry into the United States.

The number of patients readmitted to the hospitals more than five years after their entry into this country has increased 68 per cent from 1905 to 1912.

Table 16 is a summary of Tables 14 and 15 and shows the time of admission to the State hospitals after entry into the United States of the whole number of aliens and of patients of unascertained citizenship admitted or readmitted during the years 1905-12. Of these, 2,946, or 16.1 per cent, were admitted or readmitted to the hospitals before having been in this country three years; 1,596, or 8.7 per cent, were admitted or readmitted more than three years but within five years after entry into the United States; 12,244, or 66.7 per cent, were admitted or readmitted more than five years after entry into the United States. The time in the United States before admission or readmission of 1,561, or 8.5 per cent, was unascertained.

VIII. COST OF CARING FOR THE ALIEN INSANE

From the financial standpoint there are three classes of patients in the civil hospitals of New York State viz:

1. Patients supported entirely by the State — these are termed nonpaying patients.
2. Patients who repay to the State part or all of the bare cost of their maintenance up to \$5 per week.
3. Patients who pay to the State more than \$5 but not to exceed \$10 per week.

The last two classes of patients are herein called paying patients.

On September 30, 1912, the aliens in the population of the New York civil hospitals for the insane numbered 9,241, or 29.2 per cent of the total hospital population. This is probably somewhat less than the average daily alien population for 1912, as during that year 961 aliens were deported or repatriated from the New York civil hospitals by the Bureau of Deportation none of whom were in the State hospitals on September 30, 1912. Moreover it is well known that of the 402 nonresident insane returned to other states in 1912 from the civil hospitals by the Bureau of Deportation many were aliens. In addition to this, Table 11

shows that the alien patients constituted 31.9 per cent of all the first admissions to the civil hospitals from 1905 to 1912 inclusive and 29.3 per cent of the first admissions for 1912, which percentages are exclusive of all patients whose citizenship was unascertained. It seems reasonable, therefore, to assume that the average daily alien patient population in the civil hospitals for 1912 numbered at least 9,241.

In April, 1913, a special census of the paying patients in the civil hospitals, taken by the State Hospital Commission, showed that 109 were known to be aliens and 103 were of unascertained citizenship. As the total number of paying patients increased 189 or 7.2 per cent from September 30, 1912 to September 30, 1913, it is not prejudicial to the alien to assume that on September 30, 1912, there were only 212 paying patients in our hospitals who were aliens or of unascertained citizenship.

The following is a summary and comparison of the paying and nonpaying patients in the civil hospitals on September 30, 1912, classified according to citizenship:

Paying and Nonpaying Patients Classified According to Citizenship

	TOTAL		PAYING PATIENTS		NONPAYING PATIENTS	
	Number	Per cent	Number	Per cent	Number	Per cent
<i>Per cents based on total of each group</i>						
Patient population, September 30, 1912	31,624	100.0	2,613	8.26	29,011	91.74
Citizens (native born and naturalized)	22,383	100.0	2,401	10.73	19,982	80.27
Aliens	9,241	100.0	212	2.30	9,029	97.70
<i>Per cents based on total patient population</i>						
Citizens	22,383	70.8	2,401	7.59	19,982	63.21
Aliens	9,241	29.2	212	0.67	9,029	28.53
<i>Per cents based on subtotal in each division</i>						
Citizens	22,383	70.8	2,401	91.89	19,982	68.88
Aliens	9,241	29.2	212	8.11	9,029	31.12
Subtotal	31,624	100.0	2,613	100.00	29,011	100.00

From the first portion of the foregoing tabulation it appears that on September 30, 1912, of the total patient population in the civil hospitals of New York State (numbering 31,624) 2,613, or 8.26

per cent, were paying patients and 29,011, or 91.74 per cent were nonpaying patients; that of the total citizen patient population (numbering 22,383) 2,401, or 10.73 per cent, were paying patients and 19,982, or 89.27 per cent, were nonpaying patients, while of the total alien patient population (numbering 9,241) 212, or 2.3 per cent, were paying patients and 9,029, or 97.7 per cent, were nonpaying patients.

From the second portion of the above tabulation it is apparent that the citizen paying patients composed 7.59 per cent of the total patient population while the citizen nonpaying patients were 63.21 per cent thereof; that the alien paying patients comprised .67 per cent of the total patient population while the alien nonpaying patients constituted 28.53 per cent of such total.

By the third portion of the tabulation it is shown that the citizen patient population furnished 91.89 per cent of all the paying patients and 68.88 per cent of all the nonpaying patients, while the alien patient population contributed 8.11 per cent of all the paying patients and 31.12 per cent of all the nonpaying patients.

The citizen population, though but 2.4 times the alien population, furnished 11.3 times as many paying patients as the latter. In other words the proportion of paying patients among the citizen population was 4.7 times as great as among the alien population.

In 1912 the total received by the State of New York from paying patients was \$500,475.82 of which 8.11 per cent or \$40,588.59 came from the alien insane patients and 91.89 per cent, or \$459,887.23, was paid by the citizen insane patients. The foregoing figures are as favorable as possible to the alien paying patients as they are based upon the assumption that the average alien paying patient paid the State the same amount as the average citizen paying patient.

An approximation of the alien per capita payment to the State of New York in 1912 is reached if the total payment to the State of New York by the alien insane in 1912, \$40,588.59, is divided by 9,241. The result is \$4.39, which represents the average per capita payment to the State of New York by the alien insane in

1912. If the total payment to the State by the citizen insane patients in 1912, \$459,887.23, is divided by 22,383, the number of citizen insane in the State hospitals September 30, 1912, the result is \$20.55, which is the average per capita payment by each citizen insane patient in 1912.

The average daily population in the civil hospitals of New York State for 1912 was 31,580 and the population September 30, 1912, was 31,624, or 44 more than the daily average. If the \$500,475.82 paid to the State in 1912 by paying patients is divided either by 31,580 or by 31,624 the result is substantially the same — a trifle less than \$16 — which represents the average per capita payment to the State by each patient (whether citizen or alien) during the year 1912.

It is apparent, therefore, that the patient average per capita payment to the State for 1912 (\$16) was \$4.55 less than the citizen per capita average (\$20.55) but was \$11.61 more than the alien per capita average (\$4.39).

Table 17 shows that the per capita gross cost of maintenance of all patients in the New York State civil hospitals for 1912 was \$203.45. Taking from this the patient per capita average payment to the State during 1912 (\$16) leaves \$187.45 which is the patient per capita net cost of maintenance for 1912. If this is multiplied by 9,241 — the number of aliens in the civil hospitals September 30, 1912 — the result is \$1,732,225.45.

If the alien per capita average payment to the State for 1912 (\$4.39), instead of the patient per capita average payment (\$16), is deducted from the per capita gross cost of maintenance for 1912 (\$203.45) the result is \$199.06 and not \$187.45. This \$199.06 is the alien per capita net cost of maintenance for 1912. On this basis the net maintenance cost for 1912 of the 9,241 aliens would be \$1,839,513.46, or \$107,288.01 more than the previous figures.

This should be a close approximation of the *net cost* of the alien insane to the State of New York for *hospital care alone* (including food, clothes and treatment) for the year 1912.

For the same year New York State's gross expenditure for the insane was \$7,360,536.43 of which the alien patients' share was 29.2 per cent or \$2,149,276.64 and the citizen patients' share was

70.8 per cent or \$5,211,259.79. Deduct from the alien patients' share \$40,588.59, the total amount received by the State in 1912 from alien paying patients, and the result is \$2,108,688.05, which is the amount of the *net expenditure* of the State of New York for the alien insane in 1912. If the last mentioned amount is divided by 9,241, the number of alien patients on September 30, 1912, the quotient is \$228.19, which is the per capita *net expenditure* of the State for each alien insane patient in 1912. If from the citizen patients' share of the gross expenditures, which is \$5,211,259.79, is deducted \$459,887.23, the total received by New York State in 1912 from citizen paying patients, the remainder is \$4,751,352.56, which is the State's *net expenditure* for its citizen insane in 1912. Dividing the last amount by 22,383, the number of citizen patients September 30, 1912, gives \$212.27, the per capita *net expenditure* of New York for each citizen patient in 1912. If the total net expenditure for 1912, \$6,860,060.61, is divided by 31,624, the total number of patients September 30, 1912, the quotient is \$216.93, the per capita *net expenditure* for the year for the average patient (whether citizen or alien).

The above figures show that New York State's net expenditure in 1912 was \$15.92 more for each alien insane patient than for each citizen insane patient and was \$11.26 more for each alien than for the average (citizen or alien) patient but that for each citizen patient the net expenditure was \$4.66 less than for the average patient.

The foregoing figures of costs for hospital care and for net expenditure for the alien insane for 1912 are very conservative so far as the alien patient is concerned, as they take no account of aliens deported, repatriated or returned from the New York civil hospitals by the Bureau of Deportation during 1912.

The estimate of \$2,108,688.05 for the alien insane for 1912 is for *net expenditure* only. It takes no account of any charge for interest on the investment of New York State in hospitals, lands and personal property estimated in 1912 as of the total value of \$33,781,450.

In 1912 the State Hospital Commission estimated the gross cost for that year to the State of each insane patient to be \$283.57. as follows:

Annual cost of maintenance	\$203 45
Annual cost on account of investment in hospital plants	74 78
Annual cost of general administration.....	5 34
	<hr/>
	\$283 57
	<hr/>

The net cost per patient for 1912, therefore, would be \$283.57 less the patient per capita average payment to the State in 1912 (\$16), or \$267.57.

At this rate the 9,241 insane aliens in the civil hospitals on September 30, 1912, would have entailed upon the State of New York for that year a *net cost* of \$2,472,614.37.

If instead of deducting the patient per capita average payment (\$16), the alien per capita average payment to the State for 1912 (\$4.39) is subtracted from the \$283.57 above, the net cost for 1912 for each alien patient is found to be \$279.18. On this basis the *net cost* to New York State for 1912 of its 9,241 alien insane would be increased by \$107,288.01, making the total \$2,579,902.38.

This estimate does not take into account the hundreds of aliens removed from the State hospitals in 1912.

A census of the foreign-born patients in the State hospitals taken in February, 1912, showed that the average length of hospital residence was 9.85 years. This is probably a fair and low average as most well informed authorities estimate the average hospital life of the insane patients (whether alien or citizen) in the civil hospitals of New York State at ten years and over. It follows, therefore, that the average net cost of maintaining an alien patient for the time of his average residence in the New York State hospitals, at \$279.18 per annum is, \$2,749.92 exclusive of interest and that the total probable net cost to the State of the 9,241 aliens in the State hospitals September 30, 1912, if allowed to complete their average hospital residence, will be \$25,412,038.44.

It must be borne in mind that there are two hospitals for the criminal insane having a population on September 30, 1912, of

1,272, none of the aliens among whom are included in the figures of this report, and that in 1912, 198 aliens were deported and 172 nonresidents were returned from the psychopathic wards of Bellevue and Kings County hospitals and various other institutions other than State hospitals.

Summary of Costs and Expenditures for 1912

	Average patient	Average citizen patient	Average alien patient
Per capita payment to state.....	\$16 00	\$20 55	\$4 39
Net cost of maintenance (food, clothes and treatment).....	187 45	182 90	199 06
Net expenditure (maintenance, construction and repairs).....	216 93	212 27	228 19
Total net cost (maintenance, depreciation, interest and general expense).....	267 57	263 02	279 18

Taking the costs of and the expenditure for the average alien patient, as above set forth, the totals would be:

Per capita total net cost of entire hospital residence of average alien patient.....	\$2,749 92
Total <i>net cost of maintenance</i> of all the alien insane for 1912.....	1,839,513 46
Total <i>net expenditure</i> for all the alien insane for 1912	2,108,688 05
Total <i>net cost</i> of all the alien insane for 1912..	2,579,902 38
Total <i>net cost</i> of all the alien insane in civil hospitals in 1912 for average hospital residence	25,412,038 44

For the year ending September 30, 1912, the expenditures of the Bureau of Deportation were \$46,939.24. During the same period 961 aliens were deported or repatriated and 402 nonresidents removed from the civil hospitals of New York, a total of 1,363 aliens and nonresidents taken from the civil hospitals. and in addition to these 12 aliens and 8 nonresidents were sent home in this year from Matteawan and Dannemora, while 198

aliens and 172 nonresidents were removed from hospitals and other institutions, in all 390 additional. The whole number sent from the State in 1912 was 1,753.

As the expenditures of the Bureau of Deportation represented substantially the total expense to New York State in 1912 in removing these alien and nonresident insane from its borders, the per capita net cost of removal of each insane alien or nonresident from all institutions during that year would be \$26.77, which is the result reached by dividing \$46,939.24, the total expenditure, by 1,753 the total number of aliens and nonresidents sent away. Doubtless \$26.77 is more than the average cost of removing an insane nonresident from this State and less than the average cost of repatriating an insane alien but the exact difference has not been computed. No statistics are available from which the exact cost of removing each class can be determined.

In 1912 the total net cost to New York State for the average alien patient in the civil hospitals was \$279.18. If from this is deducted \$26.77, the estimated average per capita net cost of removing alien insane from the State in the same year, the result is \$252.41, which indicates the rate of saving to the State in total net cost for the first year on every alien deported or repatriated in 1912.

On this basis the State saved for the first year in total net cost \$295,572.11 on the 1,171 aliens removed from the State in 1912. Figured on the same basis the saving to the State for the first year in net cost on the 582 nonresidents returned from the State in 1912 would be \$146,902.62, making a total saving for the first year on the 1,753 aliens and nonresidents removed in 1912 of \$442,474.73. Assuming that each of these 1,171 aliens lived out his average hospital residence in the civil hospitals of 9.85 years, the total saving would be the present worth of the State's yearly contributions for the support of these patients for such period less the cost of removal. On a 4 per cent basis the present worth of \$1 paid each year for 9.85 years, according to standard monetary tables, is \$.800956. Accordingly the present worth of \$279.18, the yearly net cost to the State of the average insane alien, paid annually for 9.85 years would amount to \$2,236.11. Deducting from this amount \$26.77, the average cost of removing an insane alien, the remainder is \$2,209.34, which is the

44 ALIEN INSANE IN CIVIL HOSPITALS OF NEW YORK STATE

net saving to the State resulting from the removal of each insane alien in 1912. If this \$2,209.34 is multiplied by 1,171, the number of insane aliens removed from the State in 1912, the product would be \$2,587,137.14, the total saving in net cost to the State from the removal of such insane aliens. On the same basis the total saving in net cost of the 582 nonresidents returned in 1912 would be \$1,285,835.02, making a grand total of \$3,872,973.02.

As the per capita expenditure increases from year to year these rates of saving will increase correspondingly.

According to the foregoing computations, for each \$1 expended by New York State in 1912 in removing alien and nonresident insane from its borders, the total savings in net cost for the first year was \$9.43 and for the patient average hospital residence (9.85 years) amounted to \$82.51.

The following is a summary of the foregoing:

SUMMARY OF SAVING TO NEW YORK STATE FROM REMOVAL OF ALIEN AND NONRESIDENT INSANE IN 1912

Average per capita cost of removal of an alien or nonresident insane patient in 1912.....	\$26 77
Per capita rate of saving per annum in <i>net cost</i> for each alien or nonresident removed in 1912	252 41
Total saving for the first year in <i>net cost</i> from removal of 582 nonresident insane in 1912..	146,902 62
Total saving for the first year in <i>net cost</i> from removal of 1,171 alien insane in 1912.....	295,572 11
Total saving for the first year in <i>net cost</i> from removal of 1,753 alien and nonresident in- sane in 1912	442,474 73
Total saving in <i>net cost</i> resulting from removal of 582 nonresident insane in 1912, based on average hospital residence of 9.85 years....	1,285,835 02
Total saving in <i>net cost</i> resulting from removal of 1,171 alien insane in 1912, based on aver- age hospital residence of 9.85 years.....	2,587,137 14
Total saving in <i>net cost</i> resulting from removal of 1,753 alien and nonresident insane in	

1912, based on average hospital residence of 9.85 years	\$3,872,973 02
Total saving in <i>net cost</i> for the first year for each \$1 expended by New York State in 1912 in removing alien and nonresident insane	9 43
Total saving in <i>net cost</i> for average hospital residence of 9.85 years for each \$1 expended by New York State in 1912 in removing alien and nonresident insane	82 51

The total number of alien and nonresident insane removed from the State in 1913 by the Bureau of Deportation was 1,352 on a total expenditure of \$59,184.14, as against 1,753 in 1912 for a total expenditure of \$46,939.24, making the per capita cost of removal \$43.78 in 1913 as against \$26.77 in 1912, a per capita increase in the cost of removal of \$17.01, or 63.54 per cent.

It is obvious that as the per capita cost of removal increases the saving resulting from the removal of the alien and nonresident insane decreases and *vice versa*.

The total estimated capacity of the fourteen civil State hospitals for the insane on September 30, 1912, as certified by the various hospital superintendents, was 26,753. The total population was 31,624, and the over-crowding was 4,871. The number of aliens on that date was 9,241.

If there had been no aliens in our insane hospitals on September 30, 1912, instead of being over-crowded by upwards of 18 per cent, the hospitals would have had vacant over 16 per cent of their capacity or room for 4,370 additional patients. This would care for the increase of our citizen (native-born and naturalized) insane population for years to come and would obviate the present necessity of increasing our hospital accommodations.

It is wholly unlikely that the per capita cost per annum of the insane will decrease; on the contrary there is every likelihood that it will increase. In 1913 the per capita gross cost of maintenance was \$206.08, an increase of \$2.63 over 1912. Heavy as

the State finds the financial burden of the alien insane, there is every reason to believe that it will become still heavier year by year unless immediate steps are taken to remove, so far as possible, the causes of present conditions.

IX. SOME OF THE CAUSES OF EXISTING CONDITIONS

RELATION OF THE STATE TO THE UNITED STATES

The fundamental reason for the existence of the problem of the alien insane is the helpless position of New York and the other states, under present law, as to the admission and expulsion of aliens.

The State has no jurisdiction over immigration, other than that incident to the exercise of its police power, and has neither the right to prevent undesirable aliens from coming within its borders nor authority to remove them therefrom once they have entered. The power to regulate immigration is vested in the Federal government alone, which by its laws and rules determines what aliens shall be admitted to or removed from the several states. If a State suffer wrong or hardship by reason of the operation of these laws and rules it can obtain no adequate relief through the exercise of its own law making powers.

The State, therefore, not only must receive within its borders all such aliens as the United States admits thereto, but must apply to the Federal authorities to remove therefrom any aliens it may find to be undesirable, for it cannot of its own right remove any of them against his will.

As bearing upon the problem of the alien insane the United States Immigration Act is all important. Section 2 of the act excludes from admission into the United States certain classes, among those named being idiots, imbeciles, feeble-minded persons, epileptics and insane persons. Section 20, which provides for the deportation of aliens, permits deportation of but two classes, those "who shall enter the United States in violation of law" and "such as become public charges from causes existing prior to landing" but neither class may be deported except "within three years after * * * entry into the United States."

If then the Federal government admits within the State of New York an alien who thereafter becomes insane, the Immigration Act forbids (in that it does not permit) his deportation except within three years from the date of his entry into this country and then only if the alien has entered the United States in violation of law or has become a public charge from causes existing prior to landing.

After the three year period has expired the State may rid itself only of such insane aliens as go without objecting. Of the total number of those who thus left New York State from 1905 to 1913 inclusive, more than one-half were sent home at the expense of the State.

Although it takes five years for the alien to become a citizen, nevertheless the alien, by being three years within a State, neither desiring nor intending to become a citizen, at no time contributing by the payment of direct taxes to the support of the commonwealth and being unavailable for the military or civil duties of a citizen, may, if he becomes insane, by operation of the Immigration Act, acquire such rights as against the State that it is powerless to expel him from its boundaries or to compel his return to the country of which he is a citizen but, for its public safety and welfare or from humanitarian motives, must care for and maintain him so long as he chooses to remain.

THE BURDEN OF THE ALIEN INSANE IS IMPROPERLY PLACED AND IS BORNE UNEQUALLY

Under the Immigration Act not only is the individual State without power to prevent the entry of undesirable aliens or to compel the expulsion of aliens who become insane but, because of the immigration rules, the financial burden of the alien insane is cast upon the several States and not upon the United States. It might not make so much difference, in one aspect of the case, if this burden were equally distributed among all the States, but the facts of this report show that New York State has far more than its proper share of the alien insane and sustains a proportionately larger part of the resultant cost. That this burden is likely to continue to be disproportionate is evidenced by the fact that of the 838,172 immigrants arriving in the fiscal year ending

June 30, 1912, 239,275, or 28.5 per cent, were destined to New York State.

Since jurisdiction over immigration is vested in the Federal government alone, it is but equitable that the nation as a whole and not some few of the several states should bear the burden incident to the exercise thereof. If the United States, for humane or other reasons, elects to retain within its borders as public charges insane persons who have never acquired the rights nor assumed the duties of citizenship it is but common justice that it and not a small minority of the states should provide the requisite care and maintenance.

A careful examination of the Immigration Act reveals no provision for payment for the maintenance of aliens who "become public charges from causes existing prior to landing" in which category are most of the aliens deported under Federal warrant.

The only portions of the act touching upon expenses connected with the alien insane are found in sections 19 and 20.

Section 19 of the act directs the immediate return of all aliens brought to this country in violation of law and charges their maintenance while on land and the expense of their return to the owners of the vessels on which they came and also permits an insane alien, whose health or safety would be unduly imperiled by immediate deportation, to be held for treatment at the expense of the "immigrant fund" until such time as he may be safely deported.

Section 20 provides for the payment of the expense of removing to the port of deportation and transporting thence the alien for whose deportation the Secretary of Labor has issued a warrant.

The Immigration Act, therefore, while imposing upon the United States, by section 20, the duty of deporting aliens who become "public charges from causes existing prior to landing" in order that they shall not continue to be "public charges," fails entirely to provide for the discharge of the financial obligation necessarily arising in connection with the full performance of that duty.

In actual practice in the past the matter has been governed by the immigration rules under authority of section 22 of the Immigration Act.

At one time the government, very properly, reimbursed the State from the day the deportable alien was admitted into a State hospital — the day when he became a “public charge.” By successive modifications, each resulting in lesser payments to the State, the irreducible minimum appeared to have been reached in the present subdivision 7 of Rule 22 of the immigration rules which, so far as pertinent, reads:

“Subd. 7. *Cost of maintenance pending deportation on warrant.*— The cost of maintaining aliens during these proceedings may be borne by the Government, but as to aliens who have become public charges from causes existing prior to landing, such cost will be allowed only for the period subsequent to the date of issuance of warrant of arrest, and then only in case this is followed by an order of deportation. Maintenance bills under this rule shall be delivered to the immigration officer in immediate charge of the case within twenty days from the close of the calendar month in which occurs the death of the alien or removal from the institution for deportation, and failure so to render them shall relieve the United States from any responsibility for the payment thereof.”

“The period subsequent to the date of the issuance of warrant of arrest” for which the government would reimburse the State under the above rule is sometimes but a matter of a few days but in no instance represents the entire time during which the deportable alien has been a “public charge” of the State. It should further be noted that under the rule no allowance is made to the State unless the warrant of arrest is followed by an order of deportation.

The report of the Bureau of Deportation for 1913 states that in practice the reimbursement is even smaller than that prescribed in the rule, as maintenance charges are now allowed only from the date of the service (not of the issuance) of the warrant until the date of removal of the insane alien from the institution by the government officials. It is also stated therein that in cases where warrants of arrest have actually been issued and the deportable aliens have died in the hospitals before their deportation could

be effected the government has refused to pay the maintenance charges.

Under date of December 24, 1913 the Acting Commissioner of Immigration at Ellis Island notified the New York State authorities that the Secretary of Labor had suspended that portion of subdivision 7 Rule 22 "which relates to the maintenance of aliens who become public charges from causes existing prior to landing, such suspension to become effective December 31, 1913, after which date maintenance bills for the care of alien public charges will not be paid by the Government." The necessity for the suspension is stated in the letter of notification to be "the fact that Congress has not sufficiently provided for the maintenance and upkeep of the Immigration Service during the current fiscal year and vigorous retrenchment is essential." The final statement in the letter is "There is no requirement of law which obligates the Government to pay these bills and the only remedy for the situation lies in an increased appropriation by Congress."

For the year ending September 30, 1913 the Federal government paid New York State \$8,290.57 for care and maintenance of insane aliens and at the end of the year owed the State for the same purposes \$1,594.43 additional, a total of \$9,885. In contrast with the net cost of the alien insane to the State of New York in 1912 amounting to \$2,579,902.38, this \$9,885 seems insignificant.

In the past the State of New York has expended annually very large sums of money upon the alien insane which of right should have been paid by the Federal government and to the repayment of which it is equitably entitled. But whether or not recompense is had for the past, justice should be done in the future and the United States should assume the cost of the care and maintenance of deportable aliens from the time they become public charges.

Originally when the State of New York supervised immigration at the Port of New York the State collected a head tax. Now, pursuant to section 1 of the Immigration Act, the Federal government collects a head tax of \$4 upon every alien entering the United States. In view of these facts the government's failure to reimburse the State of New York for the care and maintenance

of the deportable insane aliens is both inconsistent and unjustifiable.

The more serious aspect of the situation, however, is that the Federal government is not made to feel its obligations. When the United States is made to bear its proper share of the financial burden of the alien insane its laws, rules and efforts in excluding and deporting mentally diseased and defective aliens will become correspondingly more efficient.

It is interesting to note in connection with this matter of the reimbursement for care and maintenance of the insane aliens that the government acts quite differently in respect to an alien "who is a lawful resident of the United States and who has become a public charge from physical disability arising subsequent to landing," who is deported with his consent and the approval of the government. Under Rule 24 such an alien may be deported within one year from landing at the expense of the United States and "the charges incurred for his care and treatment in any public or charitable institution from the date of notification to an immigration official until the expiration of one year after landing may be paid by the Bureau at such rates as it shall accept as reasonable."

The justification for this difference in attitude is not readily apparent.

DEFECT OF THE IMMIGRATION ACT AS TO CLASSES EXCLUDED

Section 2 of the Immigration Act excludes from admission to this country among others these classes, viz.:

- (1) "Idiots, imbeciles, feeble-minded persons, epileptics and insane persons."
- (2) "Persons who have been insane within five years previous."
- (3) "Persons who have had two or more attacks of insanity at any time previously."
- (4) "Persons likely to become a public charge."
- (5) "Persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living."

While these classes include all of the mental defectives and the insane, they do not include two classes particularly likely to become insane.

Many of the aliens in our State hospitals became insane on account of chronic alcoholism and many more of them evidenced constitutional psychopathic inferiority before becoming insane. Few, if any, of these are included in the foregoing classes.

Moreover persons who have been insane at any time previously should be excluded. Further the exclusion of no mentally defective person should rest upon his inability to earn a living but the exclusion of all mentally defective persons should be mandatory.

To accomplish these changes there should be added to paragraph (1) above the words "Persons with chronic alcoholism, persons with constitutional psychopathic inferiority, and persons who have been insane at any time previously."

Paragraphs (2) and (3) as above numbered should be stricken from the law and also the words "mental or" in paragraph (5).

TIME LIMIT UPON DEPORTATION

Section 20 of the Immigration Act provides in part "That any alien who shall enter the United States in violation of law, and such as become public charges from causes existing prior to landing, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported to the country whence he came at any time within three years after the date of his entry into the United States."

Table 14 gives the length of time within the United States before admission to the New York civil hospitals of the aliens and patients of unascertained citizenship, numbering in all 15,985, among the first admissions for the eight years from 1905 to 1912 inclusive.

Assuming that the time in this country before admission to the State hospitals of alien patients and of patients whose citizenship was unascertained was relatively the same, the percentages for the various time divisions, as given in Table 14, would apply alike to aliens and patients of unascertained citizenship. It appears, therefore, that of the alien first admissions for the eight years, 1905-12, 17.7 per cent entered the hospitals within three

years after landing in the United States, 9.3 per cent entered after being here three years but less than five years and 64.3 per cent after having been in this country more than five years. The time prior to admission of 8.7 per cent of the aliens could not be ascertained. Assuming the time of the unascertained cases in the United States before admission to be relatively the same as that of the known cases the percentages would be changed as follows:

	Per cent
Aliens admitted within three years after entering the United States	19.4
Aliens admitted more than three years but within five years after entering the United States	10.2
Aliens admitted more than five years after entering the United States	70.4

From the latter figures it is apparent that under the present time limit upon deportation of three years as fixed by the Immigration Act, New York State cannot expect more than 19.4 per cent of the alien first admissions to the civil hospitals to come within the limit, leaving 80.6 per cent nondeportable, while if the deportation period be extended to five years 29.6 per cent of the alien first admissions would be included leaving 70.4 per cent who would not be subject to deportation.

It should also be noted that not all the insane aliens who enter the New York civil hospitals as public charges within three years after their entry into this country are deportable, as the causes of the insanity of all of them either did not exist prior to such entry or cannot be proved to have so existed.

From the foregoing calculations it will readily be seen that the three-year limit upon deportation is wholly inadequate and that the substitution of a five-year limit would likewise be insufficient, since even with the latter limit more than seven-tenths of the alien insane first admissions to the New York hospitals from 1905 to 1912 inclusive could not legally have been deported.

The shorter the time limit upon deportation the larger will be the number of the alien insane remaining in our hospitals.

From the purely logical standpoint there is no reason why there

should be any time limit upon the deportation of the alien insane, as the State should care for and maintain none but its own indigent citizen insane.

DEFECT OF THE IMMIGRATION ACT AS TO "PUBLIC CHARGES"

Under section 20 of the Immigration Act, above quoted, but two classes of insane aliens are deportable — those "who shall enter the United States in violation of law" and "such as become public charges from causes existing prior to landing."

Even though the alien becomes insane from causes existing prior to landing he is not deportable unless he becomes a public charge, provided his entry into the United States was legal.

Thus the law makes a distinction in favor of the insane alien who commands resources sufficient to keep him from becoming a public charge as against the insane alien who has no funds at his command, though the former is no more useful or desirable an individual than the latter. From the eugenic point of view they represent equal possibilities of ill for the generations to follow. According to the theory of the law the insane alien is no menace unless and until he becomes a public charge.

In operation the law is as defective as in theory. Under its provisions it is necessary only for the relatives or friends of an alien who becomes insane from prior causes within the three-year period to prevent his becoming a public charge before the three years have expired. After that time not only is it impossible to send the alien home without his consent, but the State must care for and maintain him.

PROVISION OF THE IMMIGRATION ACT AS TO "CAUSES EXISTING PRIOR TO LANDING"

According to section 20 of the Immigration Act the insane alien who is a public charge can be deported only if his insanity arose "from causes existing prior to landing." He cannot be deported if the causes of his psychosis arose subsequent to his landing. As to prior causes the government disclaims responsibility; of subsequent causes it puts the burden upon the states.

The causation of insanity is at best a difficult and intricate subject. Theoretically causation should not enter into the question.

but if the causes of insanity are to continue to be determining factors in deportation, the Immigration Act should be amended so as to provide that an alien becoming insane may be deported unless the causes of his insanity arose subsequent to his entry into this country.

If any extrinsic facts are needed to prove the existence of the causes of the alien's insanity prior to his landing they cannot be obtained in this country as readily as in the country from which the alien migrated, while the facts establishing causes arising subsequent to his landing should be obtainable here, if anywhere.

The law, moreover, places the burden of proof as to the causation of the alien's insanity upon the State and not upon the alien. If the State fails to establish that the alien's insanity arose from "causes existing prior to landing" the alien escapes deportation.

This is emphasized by subdivision 3 of Rule 22 of the Department of Labor, Bureau of Immigration, relating to the facts to be set forth in the medical certificate essential in deportation, of which paragraph (d) requires proof as to "Whether the causes which render the alien a public charge existed prior to landing or arose subsequent thereto, and in the former case the reasons in detail justifying such a conclusion."

Placing this burden of proof upon the State is but the grant by the Federal government to an insane alien of an additional right as against the State and, in practice, inflicts a considerable hardship.

"DECISION No. 120"

Although the law and immigration rules make it difficult for the State of New York to rid itself of undesirable aliens, yet the rule promulgated by the late Department of Commerce and Labor and commonly known as "Decision No. 120," greatly increases the difficulty.

This decision was rendered by a solicitor of the Department of Commerce and Labor, January 11, 1912, and was later (February 3, 1912) approved by the Attorney-General.

The history of this decision may be found in the report of the Bureau of Deportation for the year ending September 30, 1912.

In substance the decision amounts to an assertion of the proposition that medical and other examinations of an insane alien,

opinions of qualified alienists and recommendations of the Commissioner of Immigration are valueless unless accompanied by some affirmative facts which would prove to a lay mind that the cause of the alien's insanity existed prior to landing.

Even if a medical opinion is as stated in "Decision No. 120" "wholly *ex post facto*" it should not be rejected upon that ground alone. If the author of the opinion possesses the requisite qualifications and the opinion is given in a proper case due weight should be attached to it.

Much medical opinion must necessarily be of a nature "wholly *ex post facto*."

It is no "bald medical opinion," to use a phrase of the decision, to assert that the paretic must have suffered from syphilis some years prior to his insanity, though no present evidence of the physical disease appears; on the contrary it is a sound medical opinion based upon experience, observation and study. In the case of typhoid fever, for example, the symptoms of the disease prove "*ex post facto*" that there must have been a prior entrance of the typhoid bacillus into the body of the patient.

To entitle it to reception as a precedent and authority "Decision No. 120" should have gone further than it did and shown either that the alienists were incompetent to express the opinions in question or that the psychosis from which the patient suffered was one wherein an opinion "wholly *ex post facto*" was of no value. In the latter case "Decision No. 120" might properly serve as a precedent until such time as psychiatry could demonstrate that medical opinion "wholly *ex post facto*" could be relied upon as to the priority of the causation of the particular psychosis.

"Decision No. 120" cannot, however, be upheld upon the ground that an opinion "wholly *ex post facto*" was of no value in that particular case. The mental disease under consideration therein was manic-depressive insanity, the primary cause of which is a fundamental defect. This cause was very properly termed by the examining physicians "constitutional psychopathic tendencies and mental instability."

It must be readily apparent that in the cases of many insane aliens the "affirmative fact," made essential by "Decision No. 120" to prove the prior existence of the insanity, is unprocurable.

In such instances in addition to assuming the burden of proof the State, by virtue of "Decision No. 120," must labor under an improper rule as to the weight of evidence.

The immediate result of "Decision No. 120" was not only that the State was unable to deport the insane alien in whose case the opinion was rendered (more than 18 months later she was still an inmate of a New York institution) but a larger number of warrants of arrest for deportation in other cases were cancelled by the Department of Commerce and Labor. These cancellations numbered 36 in 1911 and 80 in 1912. To "Decision No. 120" the Bureau of Deportation of New York State attributed to a great extent this increase.

The effect of and any necessity for "Decision No. 120" would disappear if, as suggested, the Immigration Act permitted the deportation of an insane alien unless it be shown that the causes of his insanity arose subsequent to landing.

Even if this suggested amendment is not immediately enacted, it is hoped that the present Department of Labor, as the result of riper experience in the science of psychiatry, will see fit in cases of deportation to give to the certificates of competent alienists, the same probative force which section 10 of the Immigration Law itself declares they shall have when the question of exclusion is involved.

CANCELLATION OF WARRANTS OF ARREST FOR DEPORTATION

From the reports of the New York State Commission in Lunacy, now the State Hospital Commission, for the years 1910 to 1912 inclusive, it appears that the then Department of Commerce and Labor cancelled, in 1910, 12 warrants of arrest for deportation obtained by the New York State authorities, 36 in 1911 and 80 in 1912, an increase of 566 per cent in three years.

In the majority of all these cancellations the officers of the United States Public Health Service and the lay immigrant inspectors concurred in the opinions of the New York State alienists as to the deportability of the insane aliens.

As section 21 of the Immigration Act required the Secretary of Commerce and Labor to deport an alien if *satisfied* that the alien is subject to deportation, it is evident that in more than 50

per cent of the cancellations expert medical opinion failed to satisfy the Department of Commerce and Labor. This indicates a radical difference of opinion between the lay and medical minds which is of very large moment to New York and other states.

If "Decision No. 120" is typical of the grounds taken in cancelling warrants of arrest it is sincerely to be hoped that the present Department of Labor will not follow the precedents of its predecessor, the Department of Commerce and Labor.

To cancel even one warrant of arrest is a serious matter, both in its eugenic and financial aspects; to nullify 128 warrants in three years, and in rapidly increasing numbers, is so grave in its possibilities as to call for immediate inquiry into its justification, and speedy correction, if unjustified.

Under subdivision 4 of Rule 22 of the Immigration Rules, the alien for whom a warrant of arrest for deportation has been issued, is granted a hearing, allowed to inspect the warrant and all the evidence on which it was issued, to be represented by counsel and to offer evidence. It is but fair and proper therefore that in every case where there is any question as to the deportability of an insane alien the State be properly represented, hear all the evidence offered in behalf of the alien and be given a reasonable opportunity to present evidence in rebuttal. If the evidence of the State is deemed insufficient to warrant deportation the State should have the right not only to present additional evidence but also to examine any evidence submitted on behalf of the insane alien. It is credibly asserted that in the past these rights have at times been denied the State.

ACCEPTANCE OF BONDS

Section 26 of the Immigration Act, permitting the landing of aliens under bonds is as follows:

"That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Labor upon the giving of a suitable and proper bond or undertaking, ap-

proved by said Secretary in such amount and containing such conditions as he may prescribe, to the people of the United States, holding the United States or any state, territory, county, municipality, or district thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any state, territory, district, county, or municipality in which such alien becomes a public charge."

Under this provision of law it is asserted that aliens afflicted with insanity have been admitted to the State of New York under bond. If the assertion is correct the aliens were admitted in violation of law and were deportable under section 20 of the Immigration Act.

It will be noticed that section 26 permits the two following classes of aliens to be admitted under bond, viz: Those "liable to be excluded because likely to become a public charge or because of physical disability (other than tuberculosis or a loathsome or dangerous contagious disease) *if otherwise admissible*."

Under section 2 of the act "insane persons" are specifically "excluded from admission into the United States" as are "persons likely to become a public charge." Therefore persons afflicted with insanity are not "*otherwise admissible*" in the language of section 26 nor could they by any construction be embraced within the meaning of the words "likely to become a public charge" in section 26.

Even if the law permitted the admission of insane aliens under bonds it would be a most unwise and dangerous practice from any point of view.

LACK OF SUFFICIENT FUNDS IN THE PAST FOR RETURN OF THE ALIEN AND NONRESIDENT INSANE BY THE STATE

There are two methods by which insane aliens are returned to their native countries from the State of New York. The first, "deportation," is that employed where the insane alien is sent back by the United States government pursuant to the provisions

of the Immigration Act. In deportation the expense of travel from the port of embarkation is borne by the transportation line by which the alien came to this country. The second, known as "repatriation," is the method employed by the State for returning insane aliens who cannot be "deported" under the provisions of the Federal law. All expenses connected with repatriation are borne either by the State or by the repatriates, their relatives or friends.

The work of repatriation in New York State is conducted by the Bureau of Deportation (which prior to 1912 was known as the Board of Alienists) under the supervision of the State Hospital Commission. This Bureau also assists in Federal deportations and, among other duties, attends to the return to other states of the nonresident insane.

During the past three years the State of New York has repatriated 1,677 insane aliens as against 1,143 deported from New York State by the United States government under Federal warrant. In addition during the same period the State has returned 1,411 nonresident insane to other states. The expense to the United States in returning these 1,143 deportees was relatively negligible, as this was largely borne by the steamship companies, while New York State bore the entire cost of sending home 970 repatriates and 614 nonresidents, the remaining 707 repatriates and 797 nonresidents going at their own expense or that of their relatives or friends.

The great increase in recent years in the numbers of the insane sent to their homes from this State is shown by the tables on page 10.

In repatriation the State first ascertains the willingness of the alien to return, next, if possible, whether his friends in the country from which he emigrated will provide for him when he is returned; further, that he is in a fit condition to travel; and beyond all this, it is the custom to buy his ticket to his own home, and, when necessary, to send with him a nurse or attendant whose expenses are paid by the State of New York. Moreover the alien is provided with a sum of money to place in his pocket on his return home.

The remarkable thing about repatriation is that it is conducted under no asserted right whatsoever of the State of New

York, but only by and with the consent of the repatriates themselves, their relatives or friends and under an informal arrangement with the various steamship lines entering the port of New York.

The number of the alien and nonresident insane in our State hospitals who can be repatriated or returned is determined primarily by the amount of the appropriations made each year for that purpose by the State Legislature.

In some years the legislative appropriations have been insufficient to enable the State authorities to repatriate or return all of the alien or non-resident insane who were willing to go back to their homes. For example the Board of Alienists stated in their annual report for 1911 that at the close of the fiscal year nearly 300 alien patients remained in the State hospitals solely because of lack of funds to secure their repatriation.

Moreover the insane aliens, their friends and relatives apparently are becoming more eager to take advantage of repatriation through the Bureau of Deportation, both because of the safe and humane method of return which it affords and also because in many, if not in the majority of cases, the alien is benefited both physically and mentally.

In comparison with the resultant saving to the State as heretofore shown herein, the total amount of the appropriations for the Board of Alienists and its successor, the Bureau of Deportation, from the beginning of the work in 1905 to and including 1913 are insignificant.

Aside from all eugenic considerations and looking at the matter simply from the financial standpoint the State of New York can appropriate funds for no purpose so profitable as that of removing from its borders the alien and nonresident insane who desire to return to their homes.

As it appears that of the alien first admissions to the New York hospitals during the years 1905 to 1912 inclusive, more than 80 per cent were admitted after the time had expired within which they could be deported under the Immigration Act, the only way of removing these aliens from our hospitals under existing conditions is by repatriation through the State Bureau of Deportation. This gives some idea of the importance of the work

of this Bureau, the necessity of furnishing it with adequate appropriations and the saving it can accomplish for the State, having in mind the fact that on September 30, 1912, there were 9,241 aliens in our hospitals.

Through the work of the Bureau of Deportation in 1912 the net increase of patients receiving care at the expense of the State was the smallest in many years. This result gives hope that the abnormal rate of increase of past years may be obliterated.

It is the opinion of this Commission, as the result of its investigation, that with an efficient and sufficient personnel and with adequate funds at its disposal the Bureau of Deportation can remove this year from the various institutions of this State many more alien and nonresident insane than have been removed therefrom in any single year since the work was organized in 1905.

DIFFICULTIES WITH STEAMSHIP COMPANIES IN REPATRIATING INSANE ALIENS

In the past the State authorities have encountered much opposition from transatlantic steamship companies entering the Port of New York to receiving as passengers insane aliens able to travel. The annual reports of the Bureau of Deportation for 1912 and of the Board of Alienists for 1911, show that many such cases were refused passage.

Under date of November 17, 1912, various transatlantic lines entered into an arrangement with the New York State officials which provided uniform rules for sending insane aliens abroad, the substance of which is as follows:

"1. The New York State Hospital Commission have advised that they will not ask for tickets for any patients who are not in condition to travel without danger to themselves or others, or for any patient who would give trouble to the officials of the ship or other passengers.

"2. In the event of the Commission sending patients who would be liable to need special care and attention a competent attendant will accompany them.

"3. The right of the alien to return must be fully established to the satisfaction of the line.

" 4. The State Hospital Commission to furnish certificate stating the exact condition of the alien, and giving full particulars as far as known of the case.

" 5. The State Hospital Commission to furnish transporting line with the name and address of the nearest relatives abroad who will care for the passenger after arrival.

" 6. The State Hospital Commission to purchase tickets for such passengers only through the head offices of the lines in New York.

" 7. That as far as possible insane aliens will be returned to the country from whence they came on the lines which brought them."

The foregoing arrangement is entirely informal, is not legally binding, and no definite duration being stated, may be terminated at any time and without notice by the steamship companies.

It seems superfluous to point out that the right of the State of New York to repatriate aliens by the steamship companies which originally brought the aliens to this country should be derived from the law and not rest upon an unstable understanding.

Under section 21 of the Immigration Act steamship companies are guilty of a misdemeanor and subject to a fine of not less than \$300, the vessel being denied clearance until the fine is paid, " for failure or refusal * * * to take on board, guard safely and return to the country whence he came any alien ordered to be deported."

Steamship companies should be under the same legal penalties " for failure or refusal to take on board, guard safely and return " those whom the State desires to repatriate as those whom the United States orders deported. The Immigration Act should be amended to this effect and the State of New York should enact a law to accomplish the same purpose.

EXAMINATION OF IMMIGRANTS BY THE STEAMSHIP COMPANIES

The testimony of representatives of various steamship companies entering the Port of New York developed a further reason for the heavy burden of foreign-born insane that the State of

New York is obliged to bear, which is much more than that of any other State in this country.

Various methods of medical examination of immigrants are employed by the different steamship companies. On the borders of Germany certain steamship lines jointly maintain the so-called "Control Stations" at which all immigrants from Russia must be examined before they are permitted to pass through Germany. At these stations the doctor of the steamship companies examines the immigrants to ascertain if they come within the requirements of the Federal Immigration Act. On the way to Hamburg the Russians are submitted to a cursory examination at a suburb of Berlin by another physician of the steamship lines, are looked over by other doctors of the companies in the immigrant halls at Hamburg, more particularly with reference to contagious diseases and hernia, and finally file before a government doctor and a ship's doctor as they embark upon the transfer boat.

Of the remaining immigrants from Northern Europe some are subjected only to the examination of passing in line before examining physicians as they embark, while others in addition to this undergo an examination like that had in the immigrant halls at Hamburg.

In Great Britain there is but one examination made of British immigrants, which is conducted upon the wharf of the steamship company or upon the lighter which carries the immigrants to the ship.

In Italy the examination is made at the various ports by an official of the Italian Government, assisted by the ship's surgeon and in some instances (through the courtesy of the Italian Government) by an officer of the United States Public Health Service. The chief purpose however of the presence of the latter at the examination is the detection of trachoma — a contagious disease of the eyes.

The value of these examinations in detecting mental defects or psychoses may be readily seen when we are told, for example, that the British immigrants are examined during the time required for the barge to go from the landing-place to the ship, which

means that from 200 to 600 are examined in about half an hour, or from 7 to 20 per minute, and that at the Italian ports the lowest rate of examination is 200 per hour, and the highest rate 400 per hour, or about 3 to 6 per minute. We are further told that these immigrants are under observation during their journey from the port of embarkation to Ellis Island, but that no special examination is made as to their mental condition.

No testimony was produced before this Commission which showed anything approaching an adequate examination by the steamship companies for the detection of mental diseases. Such examinations as were had appeared to be merely incidental to the examination to detect the physical diseases which exclude immigrants under the Federal Immigration Act.

Section 9 of the Immigration Act imposes a fine of \$100 upon a transportation company (other than railway lines entering the United States from foreign contiguous territory) bringing into this country "any alien, subject to any of the following disabilities: idiots, imbeciles, epileptics or persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease" if it appears to the satisfaction of the Secretary of Labor that the alien was so diseased or disabled at the time of foreign embarkation and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time.

The mental defectives and the insane excluded from admission into the United States under section 2 of the Immigration Act, as heretofore stated, include "All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; * * *; persons likely to become a public charge; * * *; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living."

Though the insane and feeble-minded are forbidden entry into this country by section 2 of the Immigration Act there is no

penalty imposed by section 9 thereof for bringing them here, the importation of "idiots, imbeciles and epileptics" alone in the aforementioned excluded classes, being a finable offense.

This condition should be remedied and section 9 of the Immigration Act should be broadened so as to include, in the same manner as in the proposed amendment to section 2, not only the insane and the mental defectives, but also persons with chronic alcoholism and persons with constitutional psychopathic inferiority, while the amount of the fine should be substantially increased.

With their agencies all over Europe the steamship companies have both facilities and opportunity for making careful investigation and examination of intending immigrants in order to prevent the classes above enumerated from coming to us and, in view of the profits derived by these companies from immigrant traffic, it is but reasonable that they should be required to do this, to the best of their ability.

To see what may be accomplished along similar lines we need only consider what has been done in the past toward eliminating from among immigrants some of the contagious diseases.

INADEQUACY OF MEANS FOR DETECTING INSANITY OF IMMIGRANTS AT THE PORTS OF DEBARKATION

As to the examinations heretofore had at Ellis Island, it is sufficient to quote from an address of the Hon. William Williams, late United States Commissioner of Immigration, before the Mental Hygiene Conference at New York City, November 14, 1912, in which he says:

"I shall refer only to the detection of the mental diseases with which immigrants may be afflicted, and shall show how inadequate are the ways and means which Congress has provided therefor. I am one of those who believe that the Legislature does only half its duty when it enacts a good law. The other half is to furnish adequate machinery and ways and means for its execution, without which the law accomplishes only a part of its purpose, and is there to perplex executive officials whose sworn duty and desire it is to execute it.

"Immigration to this county is at a very heavy rate. In round numbers it has during each of the past ten years averaged 900,000 annually, and the great bulk of it has been through Ellis Island. Only last month there arrived at New York over 80,000 aliens, an average of nearly 2,600 a day. Nor are the arrivals evenly distributed over the days of the month, on the contrary there arrive sometimes for several days in succession 4,000 or 5,000 a day. A great many of these people come from the poorer classes of the poorer countries of Europe. Their general physical condition is often far from good and their ignorance beyond belief. Not only are many illiterate, but many do not know the days of the week, the months of the year, their ages, or any country in Europe outside of their own. These people speak many strange tongues and dialects, and interpreters familiar with approximately forty are necessary to enable the government authorities to converse with them. A number of those who are undesirable additions to our population are nevertheless admissible under the low requirements of existing law. Obviously the task of picking out from amongst this heterogeneous mass those suffering from any mental disability is a gigantic one. It would be impossible of complete performance even if the medical staff was in size what it should be. But Ellis Island has to transact its heavy business with the instrumentalities and facilities which Congress provides. It has in all 650 officials. Of these about 130 belong to the Public Health Service, which number includes all medical officers, (doctors), hospital attendants, and nurses. The medical officers number only 21, far too few, for they have to perform a multitude of duties in relation both to the inspection of the masses of immigrants who arrive and the care of those detained at Ellis Island hospitals for sickness, such sick numbering at times several hundred.

"The process of medical inspection is roughly this: Each immigrant passes before two medical officers who rapidly look him over with a trained eye and set aside for special examination all who bear any indications of physical or

mental defects. Those so set aside are, for the purposes of mental examination, subjected to well systematized test questions, which the medical officers have evolved from their own special experience, and they apply also such recent modern and scientific methods as those worked out by Binet-Simon, Fernald, Goddard, and others. All such special cases, of which last year there were about 5,000, are gone into very thoroughly and are often detained eight days, or longer, for mental observation. But not enough cases are thus set aside, because the medical officers are compelled to work too quickly and lack the requisite number of interpreters to enable them to converse with each immigrant as he goes by. Furthermore, the space at Ellis Island available for the observation of immigrants suspected to be suffering from mental defects is too small."

Mr. Williams further stated that he had frequently called attention to these matters, asking for an additional force of medical officers, for better accommodations for the examination of the incoming immigrants, and for various other necessary facilities, and that Congress had, to a limited extent only, taken note of these matters.

Since this address was delivered in November, 1912, reports from Ellis Island show that the examinations there made for the detection of mental disease have been much more effective than formerly but that the number of medical officers, and the facilities and funds are still very inadequate.

NEW ENVIRONMENT OF THE IMMIGRANT

It has been suggested, and with reason, that one of the causes of insanity among our alien population is changed environment. Immigrants are plunged into a hurried struggle for existence, quite different in many instances from the slower and more even life to which they have been accustomed; a vast rural population suddenly enters city life; they are in a strange country, whose language, food and customs differ from their own; they are called upon to make unusual exertions and to undergo much privation.

frequently in order that they may send for their families as soon as possible, and often, having but weak resisting powers, they succumb to an hereditary taint or to a fundamental defect in personality and their insanity develops.

It is doubtless true that the new environment of the immigrant is in part responsible for some of the insanity among aliens, but to what extent it is impossible at this time to determine. It is very significant, however, that many, if not the majority of authorities believe that an unfavorable environment, as a cause of insanity, is usually associated with an inherited weakness or a fundamental defect in makeup; that the mental breakdown occurs in such instances when the stress of existence bears down upon an individual already thus predisposed.

As bearing upon the subject of environment some of the statistics published in the New York State Hospital Commission's "Statistics of the Insane for the year ending September 30, 1912" are of interest. It appears therefrom (pages 26 and 27) that 65.1 per cent of all the first admissions to the civil state hospitals for that year were residents of first class cities, New York City alone furnishing 58.3 per cent, of which 1,673 were males and 1,672 females. In the villages and rural districts the male first admissions numbered 577 and the females 480, while in the rural districts alone the male first admissions numbered 205 and the female 122.

Of the first admissions for 1912 the number of insane per 100,000 of population was as follows:

	Number per 100,000 of population
Whole State	59.9
First class cities.....	64.5
Second class cities.....	54.1
Third class cities (20,000 to 50,000).....	55.6
Third class cities (10,000 to 20,000).....	63.5
Third class cities (8,000 to 10,000).....	49.9
Villages and rural districts.....	45.3

The greater frequency of insanity in the cities as compared with the country is apparent from the foregoing.

Other interesting data in "Statistics of the Insane" show that senile insanity is relatively less frequent in the larger cities than in the villages and rural districts, but that dementia paralytica and alcoholic insanity are much more prevalent in the former.

To improve the environment of the immigrant in this country is highly desirable, but that alone will not solve this portion of the problem of the alien insane, if we are to continue to receive numerous individuals with an inherited weakness or a fundamental defect in makeup. Both improvement in environment and exclusion of these individuals are essential. From the standpoint of humanity alone, and aside from all thought of the State, the community and the future generations, we should not permit such persons to be subjected to the possibilities of mental disaster present in a new and strenuous environment.

PREVALENT PSYCHOSES

What we term "insanity" includes many different mental diseases or "psychoses." In a study directed to the consideration of insanity as a disease it would be desirable to consider these psychoses at length.

According to the testimony of the various hospital superintendents and the statistics of the New York State Hospital Commission the most prevalent psychosis in the civil hospitals of New York is what is now generally known as dementia praecox; the second in order of prevalence is general paresis (dementia paralytica) with manic-depressive insanity, senile dementia and alcoholic insanity following.

The first of these is an incurable psychosis of long duration having in some instances, periods of lucidity; the second is uniformly fatal, while alcoholic insanity may present an apparent cure yet the individual afflicted with it usually succumbs to his dipsomania with the result that the return of his psychosis is only a matter of time.

From the testimony of the hospital superintendents but little difference exists in the prevalence of dementia praecox in native-born and foreign-born, but general paresis and alcoholic insanity are relatively more frequent among the foreign-born than among the native-born.

The consensus of medical opinion given this Commission was to the effect that dementia praecox and manic-depressive insanity depend, in a great number of instances, upon fundamental defects, or inherited weaknesses, while the causation of general paresis was, in every instance, ascribed to syphilis, the disease originating five years or more after the appearance of the original lesion.

The possibility that the insane may procreate does not in all instances terminate upon their commitment to a State hospital. In cases of dementia praecox as well as those of alcoholic insanity, patients not infrequently have intervals of considerable duration of freedom from mental symptoms, during which they are discharged from the hospital and in some instances have offspring to whom the hereditary taint may be transmitted.

As general paresis rarely develops within five years after the original lesion, and often not until ten years thereafter, the inadequacy of the deportation period of the Federal law to cover these cases is obvious.

X. EUGENIC EFFECTS

However urgent the economic factors in the problem of the alien insane may be, far more serious possibilities lie in the effect of the mental defectives and the insane within our borders upon our future generations.

Eugenics—the practical application of facts learned in the study of heredity—is one of the most recent undertakings for race betterment, dating back little more than twelve years, while that branch of it relating to heredity in mental defects and diseases was taken up scarcely more than five years ago, research work therein being confined substantially to this country and Germany.

From the results already obtained we can see how important to our descendants is a complete knowledge of the transmission of insanity and mental defect by heredity. For many years the popu-

lar mind has associated insanity with heredity. This belief has been confirmed by modern investigation so far, at least, as to assure us that heredity is by far the most important single factor in the causation of certain forms of mental diseases.

To ancestors afflicted with feeble-mindedness, with dementia præcox and other mental disorders, numerous mentally defective or mentally diseased descendants have been traced in many of the families that have been investigated, while in a few of the cases examined, where one party to the marriage was normal (and presumably of pure normal ancestry) the other being insane, some normal children resulted.

The result of investigations of heredity in mental diseases and defects down to the present time entirely justifies the statement that it is highly undesirable that the feeble-minded, epileptics and those with certain types of insanity should have children.

It is patent, therefore, that both the insane, the mental defectives, and those particularly likely to become insane, who are so undesirable as parents of future generations of Americans, should be excluded so far as possible from entry into this State and country. If however they have been admitted and have not become citizens of this country they should be returned to the homes from which they came.

XI. ATTITUDE OF OTHER STATES

At the suggestion of this Commission, the Governors of the States of New Hampshire, Connecticut, Massachusetts, New Jersey, Pennsylvania, Maryland, Rhode Island, Indiana, Illinois, West Virginia, South Carolina and Virginia, have been making investigations on the same lines as those conducted in this State, and several of them have undertaken the collection of data on history cards of the form devised by this Commission. When all have

been tabulated we will, for the first time, have data concerning citizenship and based upon statistics of a uniform character.

It is interesting to know that one of the results of this study of their own problems has been the initiation in two states of an organized effort to deport those aliens in their hospitals for the insane who were clearly deportable.

It would seem, however, that but few of the states fully realize the importance of deportation and the saving resulting therefrom, for the report of the Bureau of Deportation for 1913, states that, during the twelve months ending September 30, 1913, the total number of insane aliens deported from all ports in the United States upon Federal warrant as being insane from causes existing prior to landing numbered 641; that of those, 379 or 59.12 per cent were deported from New York State through the certifications of that Bureau, leaving 262 or 41.88 per cent as representing the efforts of all the remaining states.

According to the figures of the census of 1910 New York State had 16.7 per cent of the insane in institutions in the United States, while in 1904, the last year of which figures are available, New York was caring for 25.2 per cent of the foreign-born insane. No similar percentages of the alien insane are obtainable.

While the burden of the alien insane is heaviest in the State of New York other states already feel it to a greater or lesser degree and unless speedy action be taken to remedy the causes of present conditions they will be confronted with a situation similar to that existing in New York. As no single state, but the Federal government alone has power in the premises, to obtain the necessary relief, coöperation is much to be desired.

XII. SUGGESTIONS RECEIVED

Various methods have been suggested as a solution to this vexing problem among them the following:

(a) That, as an aid to existing methods, there should be stationed at the ports of embarkation United States medical officers, who should take part in the examination of the intending immigrant.

(b) That there should be stationed upon each ship bearing immigrants to this country United States officials, either physicians or nurses, or both, who should observe the aliens from time to time and report to the immigration officials upon arrival those apparently suffering from psychoses or mental defects.

(c) That a larger number of medical officers should be detailed to Ellis Island and other large ports, and that these physicians should be men trained in the detection of mental diseases and defects.

(d) That there be provided large detention hospitals in which suspected cases could be isolated for a longer or shorter period until proper investigation could be made as to their mental condition.

(e) That the time during which deportation can be effected under Federal warrant be lengthened to five years, or longer.

(f) That "Decision No. 120" should be rescinded and the testimony of competent alienists as to mental condition be taken as sufficient authority for the issuance of Federal warrants of deportation, if other conditions admit.

(g) That the law, instead of providing that the authorities show that the causes of the alien's psychosis existed prior to his landing, should provide that the alien should show that the causes of his psychosis arose subsequent to his landing, thus putting the burden of proof upon the alien rather than upon the State.

(h) That the steamship companies which bring immigrants to this country be made responsible for the mental condition of the immigrants, as well as for the physical condition. In other words, the steamship companies shall make careful investigation into the family history and general surroundings of the proposed immigrants at their homes in order to determine that there is no hereditary taint.

RECOMMENDATIONS

I. FOR THE STATE OF NEW YORK

1. EXCLUSION OF INSANE AND MENTALLY DEFECTIVE IMMIGRANTS AT THE TIME OF THEIR ARRIVAL

(a) The present law (chapter 27 of the Consolidated Laws, article II, section 19, as amended by chapter 121 of the Laws of 1912) provides that the Bureau of Deportation "shall maintain a careful inspection and observation of the methods and facilities for examining immigrants for mental disease and defect at the Port of New York, and shall, from time to time, report to the commission upon the methods employed, and their efficiency * * *"

This is probably as much as can be done by the State in regard to the examination of immigrants, for the only authority under which an insane alien can be debarred from entering this country is the Federal law which can be enforced only by Federal officials.

(b) The State, through its Executive or its Legislature, may urge upon Congress the necessity of providing sufficient appropriations for the efficient enforcement of the Immigration Act and of enacting needed amendments thereto.

2. DEPORTATION BY FEDERAL WARRANT OF INSANE ALIENS WHO BECOME PUBLIC CHARGES FROM PRIOR CAUSES OR ARE FOUND IN THE STATE IN VIOLATION OF THE IMMIGRATION ACT

(a) The part of the State in effecting deportation of insane and mentally defective aliens consists in reporting such cases to the United States immigration authorities, furnishing information for the verification of their landing, and certifying to the conditions found and their origin from causes which existed prior to landing.

This work, so far as it relates to the insane, should be performed more efficiently each year by the Bureau of Deportation, with the coöperation of the State Hospital Commission and the superintendents of State hospitals, provided that adequate funds be furnished therefor.

The necessity of experienced alienists in the Bureau of Deportation is clearly apparent when it is recalled that in order to deport an insane alien under Federal warrant it must be proved, among other things, that the alien's insanity arose "from causes existing prior to landing" in this country. This fact in most instances can be established only by expert medical opinion.

(b) Superintendents of State hospitals should make the most diligent efforts to determine, at the time of admission, the citizenship of every patient; should immediately notify the Bureau of Deportation not only of all admissions known to be aliens but of all not known to be citizens. For this purpose and to obtain the information essential for the verification of landing, a sufficient number of attendants able to speak foreign languages should be employed, and, in the case of languages less frequently spoken, the temporary services of interpreters should be enlisted. Unfortunately it appears that the number of attendants speaking foreign languages and of interpreters in the State hospitals is quite inadequate. Moreover, it has been shown that attendants speaking the language of the alien insane patient are of great assistance in the diagnosis of the patient's affliction and in the treatment thereof.

(c) Physicians of the Bureau of Deportation should make frequent visits to all the State hospitals to aid in making the needed investigations of aliens and to see that no deportable aliens have been overlooked by the hospital authorities.

(d) Everything possible should be done to insure the fullest coöperation between the Federal and State authorities in these deportations.

As deportation under Federal warrant is effected with but little expense to the State, every effort should be made to utilize the provisions of the Immigration Act to the fullest extent.

(3) REPATRIATION OF ALIENS WITH THEIR CONSENT AND RETURN OF NONRESIDENTS AT EXPENSE OF STATE OR FRIENDS

(a) For the past three years the number of aliens repatriated and of nonresidents returned from this State has each exceeded the number of aliens deported therefrom by the Federal authorities.

As attendants are employed more frequently by the State than by the Federal authorities the methods of repatriation are more humane and efficient than those of deportation. Repatriation is, however, the more difficult and expensive method. Success is largely dependent upon the appropriations available. If the Bureau of Deportation is not equipped with a staff adequate in numbers and ability and supplied with a sufficient appropriation the work will suffer, from which large financial loss to the State must result.

(b) As repatriation depends at present upon the consent of the steamship companies it is highly desirable that the rights of New York State in this matter should be protected without further delay by amendments to the Federal and State laws.

(c) Communication with the proper authorities of foreign governments should be established through and with the coöperation of the Federal government in order that better arrangements than those now existing may be made for the reception and care of insane aliens repatriated by the State and for improving the status of attendants accompanying them.

(d) Existing facilities for statistical research should be extended and used to the fullest extent for the study of the whole question of the alien insane, along the lines of this inquiry, as it would be a serious mistake to fail to continue statistical studies similar to those herein presented. As long as immigration continues, the problem of the alien insane will be present and to reach an accurate solution of it without full and recent statistical information will be impossible. The value of the material gathered is enhanced by the fact that already other states are preparing statistics along the lines followed by this Commission, from which valuable comparative studies should be made.

II. FOR ACTION BY THE UNITED STATES GOVERNMENT**A. UNDER EXISTING LAWS****1. EXCLUSION OF INSANE AND MENTALLY DEFECTIVE IMMIGRANTS
AT THE TIME OF THEIR ARRIVAL**

(a) The mental and physical examination of immigrants is the responsibility of the United States Public Health Service. There is need for the employment at the ports of entry of more trained alienists. These officers have to devote much of their time to examinations for physical diseases and defects. That the force of alienists has been insufficient is shown by the increase in the number rejected on the mental examination whenever in the past additional alienists have been assigned to duty at Ellis Island.

(b) As far as possible, physicians skilled in the detection of mental diseases and defects should be selected from the candidates for admission to the United States Public Health Service.

(c) Physicians in this Service should be detailed for training at hospitals for the insane in order to insure a greater number of alienists. This was done at one time but was discontinued some six years ago.

(d) The three foregoing recommendations can be put into effect without legislation except the necessary appropriations for pay and allowance for the additional officers needed. Unless these things are done much of the legislation recommended for the detection of the insane and the mental defectives at the ports of entry will be ineffective.

(e) Employment and careful training of a sufficient number of interpreters for this part of the medical examination is needed. A difference of opinion as to which department of the Federal government should employ such interpreters has prevented their appointment. This is a trivial matter compared with the great importance to the states which bear the burden of the alien insane of providing such urgently needed assistance.

**2. DEPORTATION BY FEDERAL WARRANT OF INSANE ALIENS
WHO BECOME PUBLIC CHARGES FROM PRIOR CAUSES OR ARE
FOUND IN THE STATE IN VIOLATION OF LAW**

(a) A more active policy on the part of the Federal authorities in enforcing this part of the law is needed. They should coöper-

ate to the fullest extent with the State authorities to render the law as effective as possible. At present practically the whole burden of proving an aliens' deportability and even his identity is thrust upon the State authorities. No aid is rendered by the Government in securing information necessary to verify the landing. When it is remembered that many deportable aliens are public charges through the inability or the failure of the Federal Government to determine their condition upon arrival, such attitude is inconsistent. Moreover it indicates indifference to the rights of the several states and to the unnecessary burdens placed upon their taxpayers.

(b) The period for which the Government should reimburse the State for the cost of the maintenance of deportable alien patients should be fixed so as to begin with the admission of the alien to a hospital for the insane. This can be done without change in the Immigration Act as the present rule was made by the former Department of Commerce and Labor. Until April 1, 1911, this cost of maintenance was paid from the time the Department of Commerce and Labor was notified of the presence of the alien in a hospital for the insane to the time of his deportation. As has been heretofore stated the Department of Labor on January 1, 1914, discontinued even the meagre payments theretofore made New York State for the care and maintenance of deportable aliens, pursuant to Subd. 7, Rule 22, Immigration Rules, because of insufficient appropriations. The proper method of dealing with this matter would be to amend the Immigration Act so as to make payments for the deportable insane mandatory, as hereinafter recommended.

(c) Warrants of deportation should not be cancelled without giving the State opportunity to present, after due notice, all its evidence. In the past warrants have been cancelled upon evidence which, in several instances, the State would have been able to refute if given the opportunity.

(d) "Decision No. 120," hereinbefore referred to, which is a departmental ruling, should be annulled.

(e) Trained attendants should be sent with deported aliens to their final destination in all cases in which it is certified by a medical officer of the United States Public Health Service, or by

the chief medical officer of the institution in which such aliens have been under treatment, that special care and attendance is needed by reason of the mental or physical condition of such aliens. The present law *permits* this to be done, but in the past it has been the practice of the Government to require the steamship companies to furnish such special care and attendance and to accept from these companies documentary evidence, of a very unsatisfactory nature in some instances, of the delivery of the alien to relatives or the proper authorities abroad. As a result, some deported patients have suffered from neglect or ill-treatment.

B. NEW LEGISLATION RECOMMENDED

1. EXCLUSION OF INSANE AND MENTALLY DEFECTIVE IMMIGRANTS AT THE TIME OF THEIR ARRIVAL OR BEFORE EMBARKATION

(a) The Immigration Act should exclude immigrants with chronic alcoholism and those with constitutional psychopathic inferiority. Many of these cases though detected at the ports of entry pass the inspecting officers as the present law does not forbid their admission. At best they can never become useful or desirable citizens and too frequently they become patients in our State hospitals. Moreover, as heretofore stated (p. 52), persons who have been insane at any time previously should be forbidden entry and the exclusion of all mentally defective persons should be made mandatory.

(b) The Immigration Act should provide that each immigrant examined receive at the port of entry from the medical officer or officers who examined him a certificate that no mental or physical diseases or defects were found or that those found had been set forth therein. Something of this character should be done to change the present method by which only a small portion of all immigrants are examined, the rest being "inspected."

(c) The Immigration Act should provide that medical officers of the United States Public Health Service with special training in the diagnosis of mental diseases and defects should be detailed for duty in sufficient numbers at all times at all ports of entry. This would provide definitely by law for a procedure which now does not even depend upon regulation.

(d) The Immigration Act should provide that such medical

officers at all times have the necessary facilities, including the exclusive services of interpreters, that they be responsible for this part of the medical examination and be required to make recommendations, from time to time, as to facilities needed. These provisions have been shown to be necessary and they insure the permanence of the work.

(e) The Immigration Act should provide for the imposition upon transportation companies of a fine of not less than \$200 for bringing to this country any alien whose insanity, mental defect, chronic alcoholism or constitutional psychopathic inferiority could have been detected by a competent medical examination prior to his embarkation.

(f) The Immigration Act should provide for a special study of the methods employed in the detection of mental diseases and defects among immigrants, the changes desirable, etc., by a board of medical experts, including officers of the United States Public Health Service and physicians in civil life who are especially familiar with the subjects involved.

2. DEPORTATION BY FEDERAL WARRANT OF INSANE ALIENS WHO BECOME PUBLIC CHARGES FROM CAUSES EXISTING PRIOR TO LANDING OR ARE FOUND IN THE STATE IN VIOLATION OF THE IMMIGRATION ACT

(a) The Immigration Act should provide that when the chief executive officer of a public institution certifies that an alien is a public charge therein, it shall be the duty of the proper Immigration Commissioner to make an investigation as soon as possible to verify the landing of such alien and to determine if he is deportable.

(b) The time within which an alien may be deported (three years after the date of his entry into the United States) should be extended to not less than five years, so that the period shall be at least as long as that within which an alien may become a citizen.

(c) If the Immigration Act is to continue to embody a time limit upon deportation it should further provide for an extension of the period in which deportation of the alien may be effected, when-

ever the proceedings for deportation are *commenced* within the statutory period. At present delays and legal stays sometimes place the deportable alien safely beyond such period.

(d) Logically considered, to secure the deportation from this country of an insane alien, the Immigration Act should require the proof of but two facts, viz: insanity and foreign citizenship. Neither the causation of the alien's insanity nor his financial ability should enter into the question. From every point of view, however, the present law should be changed so as to provide that an alien shall be deportable unless it is *affirmatively shown* that the causes of the alien's insanity arose *subsequent* to landing. This would change the burden of proof which it is manifestly unfair to impose upon the State.

(e) The Immigration Act should provide, definitely, for the reimbursement by the United States to the State of the cost of the care and maintenance of deportable aliens from the date of admission to a hospital for the insane to the date of deportation, or until the date of discharge or death in the case of an alien who for any cause it is found impossible or deemed inadvisable to deport.

(f) The Immigration Act should make it mandatory that the immigration authorities direct that the insane alien who is to be deported shall be accompanied to his final destination by a suitable attendant in each case in which it is certified, by a medical officer of the United States Public Health Service, or by the chief medical officer of the institution in which such alien has been under treatment, that the alien's condition requires special care and attendance. The expenses of the attendant both going and returning should be borne by the transportation company.

(g) Even if "Decision No. 120" is annulled by the Federal authorities, Congress should enact a law providing that the testimony of competent alienists as to the mental condition of the alien be taken as sufficient authority for the issuance of a Federal warrant of deportation, if other conditions admit.

3. REPATRIATION OF ALIENS AT EXPENSE OF STATE OR FRIENDS AND WITH CONSENT OF ALIENS THEMSELVES

(a) The Immigration Act should provide that it shall be a misdemeanor, punishable by a fine, for any transportation company to refuse to sell tickets for or to receive on board, guard safely and return any insane alien who is or has been in an institution for the insane and who desires to be carried to the country of which he is a citizen; provided (1) that all the expenses of the return of such alien at customary rates, be borne by such alien, his friends or the authorities charged with his care; (2) that it be certified by the chief medical officer of such institution for the insane that such alien is in condition to travel with safety to others; (3) that it be certified by the same official that such alien is in condition to travel alone with safety to himself or is provided with a suitable attendant; and (4) that such alien is free from any quarantinable disease.

4. APPROPRIATIONS

Congress should make adequate appropriations to carry into effect the foregoing recommendations for the exclusion and deportation of insane and mentally defective aliens and to that end should make provision for the requisite number of trained alienists and interpreters to conduct mental examinations at the various ports of entry; should supply all needed facilities including sufficient quarters for detention for the purposes of observation of all immigrants whose right of entry is questioned; should furnish funds to reimburse the States for the cost of the care and maintenance of the deportable alien insane; and should supply special care and attendance for insane aliens who are being deported, whenever the necessity therefor is certified.

In view of the large sums of money received each year by the Federal government from the head tax on immigrants and having in mind the responsibilities which it has assumed in the admission and deportation of aliens, simple justice requires that the United States appropriate sufficient monies each year to insure the adequate discharge of the duties and obligations arising therefrom.

5. THE PROPER METHOD OF RETURNING THE ALIEN INSANE TO THEIR HOMES

There should be a centralized and uniform system for returning the alien insane, operated by the Federal government, with such assistance as the State authorities can render. The present dual system by which we return these aliens — deportation by the United States under Federal law and repatriation by the several states under little apparent law but only by and with the consent of the aliens — is outworn and an anomaly. Over the admission of aliens the Federal government now exercises sole power. Logically and rightly therefore it alone should undertake the burden and duty of caring for or sending from this country such of them as become incapacitated by reason of insanity. A unified and adequate system is as necessary in the removal of aliens as in the examination of immigrants, the one being the corollary of the other. These are distinctly Federal functions and should be exercised by the general government for the benefit of all the states. The United States is clothed with authority to deal with foreign governments in matters pertaining to their respective subjects while the several states have no powers in the premises. The Federal government may control common carriers of immigrants; the states may not, unless perhaps to a limited degree.

Two of the practical difficulties in the way of the adoption of this plan are:

First. The freedom of the Federal government from the financial burden of the care and maintenance of the alien insane. So long as this continues it will feel little incentive to assist the states in removing the cause.

Second. The large number of insane aliens now in our institutions who cannot be deported under Federal law and who can be returned only through repatriation. The Federal government should not be heard to say that the states must either repatriate or pay for the care and maintenance of insane aliens, citizens of none of the states, whom it will not deport. This is arbitrary and unjust.

The United States should assume the entire financial burden of

the alien insane in public institutions at the present time and of those who may hereafter be admitted thereto. When this is done it will be wholly safe and advisable to entrust to the Federal government the entire discharge of the duty of returning the alien insane to the countries of which they are citizens.

Respectfully submitted,

SPENCER L. DAWES

Commissioner.

January 23, 1914.

LEWIS R. PARKER,

CHARLES A. DOOLITTLE, JR.,

Counsel.

Table 1 — Nativity and citizenship of patients in the New York State hospitals September 30, 1912

	TOTAL		UTICA		WILLARD		HUDSON RIVER		MIDDLETOWN		BUFFALO		BRIGHTON	
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
NUMBER														
Total patients.....	14,744	16,890	31,634	764	809	1,573	1,149	1,222	2,371	1,354	1,733	3,087	753	1,287
Native-born patients.....	8,998	8,898	17,896	564	590	1,154	764	752	1,516	946	1,047	1,993	581	904
Foreign-born patients of foreign parentage.....	5,746	7,992	13,738	200	219	419	386	480	866	408	686	1,094	172	463
Foreign-born patients who have been naturalized.....	2,149	2,338	4,487	111	117	228	116	117	233	166	199	365	67	63
Aliens.....	3,597	5,644	9,241	89	102	191	269	363	632	242	487	729	106	370
PER CENT														
Total patients.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born patients.....	61.0	52.7	56.6	73.8	72.9	73.7	66.8	61.0	63.7	69.9	60.4	64.5	77.1	63.4
Foreign-born patients of foreign parentage.....	39.0	47.3	43.4	26.2	27.1	26.7	33.5	39.0	36.3	30.1	39.6	35.5	22.9	36.6
Foreign-born patients who have been naturalized.....	14.6	13.9	14.2	14.5	14.4	14.5	10.6	9.8	13.2	11.5	11.8	11.8	7.3	7.0
Aliens.....	24.4	23.4	29.2	11.7	12.7	12.3	25.4	26.5	26.5	17.9	26.1	26.3	14.0	29.3
PER CENT														
Total patients.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born patients.....	61.0	52.7	56.6	73.8	72.9	73.7	66.8	61.0	63.7	69.9	60.4	64.5	77.1	63.4
Foreign-born patients of foreign parentage.....	39.0	47.3	43.4	26.2	27.1	26.7	33.5	39.0	36.3	30.1	39.6	35.5	22.9	36.6
Foreign-born patients who have been naturalized.....	14.6	13.9	14.2	14.5	14.4	14.5	10.6	9.8	13.2	11.5	11.8	11.8	7.3	7.0
Aliens.....	24.4	23.4	29.2	11.7	12.7	12.3	25.4	26.5	26.5	17.9	26.1	26.3	14.0	29.3

* Includes unascertained cases.

Table 1—Nativity and citizenship of patients in the New York State hospitals September 30, 1912—(Concluded)

	ST. LAWRENCE			ROCHESTER			GOWANDA			MOSLEMIC			KINGS PARK			LONG ISLAND			MANHATTAN			CENTRAL ISLT		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER																								
Total patients.....	942	1,046	1,988	563	905	1,468	583	521	1,104	50	1	51	1,500	2,315	3,815	359	388	747	1,826	2,744	4,570	2,583	1,853	4,436
Native-born patients.....	714	669	1,383	397	576	973	310	314	624	33	1	34	943	1,116	2,059	250	191	421	1,080	1,014	2,094	1,066	569	1,635
Foreign-born patients of foreign parentage.....	228	377	605	196	329	525	273	207	480	17	.....	17	557	1,199	1,756	129	197	326	796	1,730	2,526	1,519	1,284	2,803
Foreign-born patients who have been naturalized.....	69	57	126	88	128	216	92	73	165	4	.....	4	263	458	721	102	115	217	325	383	708	494	397	891
Aliens.....	159	320	479	108	201	309	181	134	315	13	.....	13	294	741	1,035	27	83	109	471	1,347	1,818	1,025	887	1,912
PER CENT																								
Total patients.....	100	0	100	0	100	0	100	0	100	0	100	0	100	0	100	0	100	0	100	0	100	0	100	0
Native-born patients.....	75.8	64.0	70.0	66.9	63.6	65.0	53.2	60.3	56.5	66.0	100.0	66.6	62.9	48.2	54.0	64.1	49.2	56.4	58.4	57.0	44.7	41.2	30.7	36.8
Foreign-born patients of foreign parentage.....	24.2	36.0	30.0	33.1	36.4	35.0	46.8	39.7	43.5	34.0	.....	33.4	37.1	51.8	46.0	35.9	50.2	43.6	43.6	63.0	55.3	58.8	60.3	63.2
Foreign-born patients who have been naturalized.....	7.4	5.4	6.3	14.8	14.1	14.4	15.8	14.0	14.9	8.0	.....	7.8	17.5	19.8	18.9	28.4	29.6	29.0	17.7	14.0	15.5	10.1	21.4	20.1
Aliens.....	16.8	30.6	23.7	13.3	22.3	20.6	31.0	23.7	28.6	26.0	.....	25.6	19.6	32.0	27.1	7.5	21.2	14.6	25.9	49.0	39.5	39.7	47.9	43.1

* Includes unascertained cases.

TABLE 2 — Nativity of first admissions to the State hospitals for the insane, 1905-1912

	Total			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
All first admissions.....	23,009	20,506	43,515	2,359	2,161	4,520	2,514	2,399	4,913	2,811	2,441	5,252
Native-born.....	12,579	10,688	23,267	1,304	1,193	2,497	1,408	1,261	2,669	1,565	1,258	2,823
Foreign-born.....	10,249	9,772	20,121	1,047	960	2,007	1,091	1,137	2,218	1,240	1,176	2,416
Unascertained.....	81	46	127	8	8	16	15	11	26	6	7	13
PER CENT												
First admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born.....	54.7	52.1	53.5	55.8	55.2	55.3	56.0	52.6	54.3	55.7	51.5	53.8
Foreign-born.....	45.0	47.7	46.2	44.4	44.4	44.4	43.4	47.0	45.2	44.1	48.2	46.0
Unascertained.....	0.3	0.2	0.3	0.3	0.4	0.3	0.6	0.4	0.5	0.2	0.3	0.2

Table 2 — Nativity of first admissions to the State hospitals for the insane, 1905-1912 — (Concluded)

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
All first admissions.....	3,043	2,696	5,739	2,968	2,598	5,566	3,086	2,781	5,867	8,119	2,971	5,790	3,109	2,759	5,868
Native born.....	1,630	1,345	2,975	1,640	1,362	3,002	1,697	1,454	3,151	1,643	1,401	3,044	1,692	1,414	3,106
Foreign born.....	1,399	1,346	2,745	1,319	1,233	2,552	1,379	1,322	2,701	1,463	1,569	2,732	1,411	1,339	2,750
Unascertained.....	14	5	19	9	3	12	10	5	15	13	1	14	6	6	12
PER CENT															
First admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native born.....	53.6	49.9	51.8	55.3	52.4	53.9	55.0	52.8	53.7	52.7	52.5	52.6	54.4	51.3	52.9
Foreign born.....	45.9	49.9	47.9	44.4	47.5	45.9	44.7	47.5	46.0	46.9	47.5	47.2	45.4	48.5	46.9
Unascertained.....	0.5	0.2	0.3	0.3	0.1	0.2	0.3	0.2	0.3	0.4	.....	0.2	0.2	0.2	0.2

TABLE 3 — Nativity of readmissions to the State hospitals for the insane, 1905-1912

	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Total readmissions.....	4,029	4,614	8,643	334	499	833	412	460	872	374	458	832
Native-born.....	2,786	2,795	5,581	232	301	533	273	288	561	271	284	555
Foreign-born.....	1,260	1,816	3,076	101	198	299	138	172	310	103	173	276
Unascertained.....	3	4	7	1	.....	1	1	.....	1	.....	1	1
PER CENT												
Readmissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born.....	68.7	60.3	64.3	69.5	60.3	64.0	66.3	62.6	64.3	72.5	62.0	68.7
Foreign-born.....	31.2	39.3	35.6	30.2	39.7	35.9	33.5	37.4	35.6	27.5	37.8	31.2
Unascertained.....	0.1	0.1	0.1	0.3	.....	0.1	0.2	.....	0.1	.....	0.2	0.1

Table 3 — Nativity of readmissions to the State hospitals for the insane, 1905-1912 — (Concluded)

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Total readmissions.....	419	513	932	497	574	1,071	638	646	1,285	668	730	1,398	686	734	1,420
Native-born.....	299	312	611	355	359	714	440	352	822	446	429	875	450	440	890
Foreign-born.....	120	201	321	142	214	356	199	263	462	222	300	522	235	294	529
Unascertained.....	.....	.....	.....	.....	1	1	.....	1	1	.....	1	1	1	.....	1
PER CENT															
Readmissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born.....	71.4	60.8	65.6	71.4	62.5	66.7	68.9	56.1	64.0	66.8	58.8	62.6	65.6	59.9	62.7
Foreign-born.....	28.6	39.2	34.4	28.6	37.3	33.2	31.1	40.7	35.9	33.2	41.1	37.3	34.3	40.1	37.2
Unascertained.....	.....	.....	.....	.....	0.2	0.1	.....	0.2	0.1	.....	0.1	0.1	0.1	.....	0.1

TABLE 4 — Nativity of all admissions to the State hospitals for the insane, 1905-1912

	Total			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
All admissions.....	27,038	25,120	52,158	2,993	2,660	5,653	2,926	2,859	5,785	3,185	2,809	6,094
Native-born.....	16,245	13,483	29,728	1,886	1,494	3,380	1,881	1,549	3,430	1,836	1,542	3,378
Foreign-born.....	11,609	11,637	23,246	1,148	1,158	2,306	1,229	1,299	2,528	1,343	1,349	2,692
Unascertained.....	84	50	134	9	8	17	16	11	27	6	8	14
PER CENT												
All admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born.....	56.8	53.7	55.3	67.0	56.2	58.6	67.5	54.2	55.8	57.6	53.2	55.5
Foreign-born.....	42.9	46.1	44.5	42.7	43.5	43.1	42.0	45.4	43.7	42.2	46.5	44.3
Unascertained.....	0.3	0.2	0.2	0.3	0.3	0.3	0.5	0.4	0.5	0.2	0.3	0.2

Table 4 — Nativity of all admissions to the State hospitals for the insane, 1905-1912 — (Concluded)

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
All admissions.....	3,462	3,209	6,671	3,465	3,172	6,637	3,725	3,427	7,152	3,787	3,401	7,188	3,795	3,498	7,293
Native-born.....	1,928	1,637	3,565	1,965	1,721	3,716	2,137	1,836	4,973	2,089	1,830	3,919	2,142	1,853	3,995
Foreign-born.....	1,519	1,547	3,066	1,461	1,447	2,908	1,578	1,588	3,163	1,685	1,569	3,254	1,646	1,633	3,279
Unascertained.....	14	5	19	9	4	13	10	6	16	13	2	15	7	0	13
PER CENT															
All admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Native-born.....	55.7	51.6	53.7	57.6	54.3	56.0	57.4	53.6	55.6	55.2	53.8	54.5	56.4	53.1	54.8
Foreign-born.....	43.9	48.2	46.0	42.2	45.6	43.8	42.3	46.2	44.2	44.5	46.1	45.3	43.4	46.7	45.0
Unascertained.....	0.4	0.2	0.3	0.2	0.1	0.2	0.3	0.2	0.2	0.3	0.1	0.2	0.2	0.2	0.2

TABLE 5 — Percentage of first admissions to the State hospitals for the insane, 1905-1912

PARENTAGE	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Native-born patients.....	12,579	10,688	23,267	1,304	1,193	2,497	1,408	1,261	2,669	1,565	1,258	2,823
Of native percentage.....	6,510	5,378	11,888	655	623	1,278	736	612	1,348	808	673	1,481
Of mixed percentage.....	1,254	1,092	2,346	116	90	206	130	141	271	156	115	271
Of foreign percentage.....	4,815	3,847	8,662	474	418	892	487	444	931	588	417	1,005
Of unknown percentage.....	356	371	727	59	62	121	55	64	119	43	53	96
Foreign-born patients.....	10,349	9,772	20,121	1,047	960	2,007	1,091	1,127	2,218	1,240	1,176	2,416
Of native percentage.....	15	44	59	11	5	16	4	3	7	7	2	9
Of mixed percentage.....	64	44	108	11	5	16	8	1	9	7	7	14
Of foreign percentage.....	10,170	9,539	19,709	1,021	930	1,951	1,063	1,100	2,163	1,223	1,132	2,355
Of unknown percentage.....	100	178	278	15	24	39	16	23	39	9	35	44
Nativity unascertained.....	81	46	127	8	8	16	15	11	26	6	7	13
Percentage unascertained.....	81	46	127	8	8	16	15	11	26	6	7	13
PER CENT												
Native-born patients.....	54.7	52.1	53.5	55.3	55.2	55.3	56.0	52.6	54.3	55.7	51.5	53.8
Of native percentage.....	28.3	26.2	27.3	27.8	28.5	28.3	29.3	25.5	27.5	28.7	27.5	28.2
Of mixed percentage.....	5.5	5.3	5.4	4.9	4.2	4.6	5.1	5.9	5.5	5.6	4.7	5.2
Of foreign percentage.....	19.4	18.8	19.1	20.1	19.3	19.7	19.4	18.5	18.9	19.9	17.1	18.6
Of unascertained percentage.....	1.5	1.7	1.7	2.5	2.9	2.7	2.2	2.7	2.4	1.5	2.2	1.8
Foreign-born patients.....	45.0	47.7	46.2	44.4	44.4	44.4	43.4	47.0	45.2	44.1	48.2	46.0
Of native percentage.....	0.1	0.1	0.1	0.5	0.2	0.4	0.2	0.1	0.2	0.3	0.1	0.1
Of mixed percentage.....	0.3	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.3	0.3	0.3
Of foreign percentage.....	44.2	46.5	45.2	43.3	43.1	43.2	42.3	45.9	44.0	43.5	46.4	44.8
Of unascertained percentage.....	0.4	0.9	0.9	0.9	1.1	0.8	0.6	1.0	0.8	0.3	1.4	0.8
Nativity unascertained.....	0.3	0.2	0.3	0.3	0.3	0.3	0.6	0.4	0.5	0.2	0.3	0.3
Percentage unascertained.....	0.3	0.2	0.3	0.3	0.4	0.3	0.6	0.4	0.5	0.2	0.3	0.3

Table 5 — Percentage of first admissions to the State hospitals for the insane, 1905-1912 — (Concluded)

PARENTAGE	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Native-born patients.....	1,630	1,345	2,975	1,640	1,362	3,002	1,697	1,454	3,151	1,643	1,401	3,044	1,692	1,414	3,106
Of native parentage.....	844	674	1,518	845	684	1,549	876	694	1,570	888	707	1,595	886	704	1,590
Of mixed parentage.....	183	147	330	188	139	327	183	154	337	172	141	313	191	165	356
Of foreign parentage.....	505	470	1,005	585	486	1,093	583	573	1,156	561	523	1,084	596	501	1,097
Of unknown parentage.....	33	54	87	42	31	73	45	33	78	42	30	72	37	44	81
Foreign-born patients.....	1,399	1,346	2,745	1,319	1,233	2,552	1,379	1,392	2,771	1,463	1,260	2,723	1,411	1,339	2,750
Of native parentage.....	2	.....	2	.....	.....	.....	1	2	3	2	1	3	.....	2	2
Of mixed parentage.....	3	1	4	6	.....	15	9	.....	15	7	.....	12	13	10	23
Of foreign parentage.....	1,376	1,310	2,685	1,299	1,202	2,501	1,363	1,295	2,658	1,439	1,257	2,696	1,387	1,313	2,700
Of unknown parentage.....	16	35	51	13	22	35	6	19	25	14	6	20	11	14	25
Nativity unascertained.....	14	5	19	9	3	12	10	5	15	13	1	14	6	6	12
Percentage unascertained.....	14	5	19	9	3	12	10	5	15	13	1	14	6	6	12
PER CENT															
Native-born patients.....	53.6	49.9	51.8	55.3	52.4	53.9	55.0	52.3	53.7	52.7	52.5	52.6	54.4	51.3	52.9
Of native parentage.....	27.7	25.0	26.5	28.8	26.7	27.8	28.4	24.9	26.7	27.8	26.5	27.2	27.9	25.5	26.8
Of mixed parentage.....	5.2	5.5	5.3	5.0	5.3	5.2	5.9	5.5	5.7	5.5	5.3	5.4	6.1	6.0	6.0
Of foreign parentage.....	19.6	17.4	18.5	20.1	19.2	19.6	19.2	20.7	20.0	18.0	19.6	18.7	19.2	18.2	18.7
Of unascertained parent- age.....	1.1	2.0	1.5	1.4	1.2	1.3	1.5	1.2	1.3	1.4	1.1	1.3	1.2	1.6	1.4
Foreign-born patients.....	45.9	49.9	47.9	44.4	47.5	45.9	44.7	47.5	46.0	46.9	47.5	47.2	45.4	48.5	46.9
Of native parentage.....	0.1	.....	0.1	.....	.....	0.3	.....	0.1	0.1	0.1	.....	0.2	0.1	0.1	0.1
Of mixed parentage.....	0.1	.....	0.1	.....	0.3	0.3	0.3	0.2	0.2	0.2	0.2	0.2	0.4	0.4	0.4
Of foreign parentage.....	45.2	48.6	46.8	43.8	46.3	45.0	44.2	46.5	45.3	46.1	47.1	46.5	44.6	47.5	46.0
Of unascertained parent- age.....	0.5	1.3	0.9	0.4	0.9	0.6	0.2	0.7	0.4	0.5	0.2	0.4	0.4	0.5	0.4
Nativity unascertained.....	0.5	0.2	0.3	0.3	0.1	0.2	0.3	0.2	0.3	0.4	.....	0.2	0.2	0.2	0.2
Percentage unascertained.....	0.5	0.2	0.3	0.3	0.1	0.2	0.3	0.2	0.3	0.4	.....	0.2	0.2	0.2	0.2

TABLE 6 — Percentage of first admissions to the State hospitals for the insane, 1905-1912
NATIVE, FOREIGN AND UNASCERTAINED, COMBINED

PARENTAGE	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
	NUMBER											
All first admissions.....	23,009	20,506	43,515	2,359	2,161	4,520	2,514	2,399	4,913	2,811	2,441	5,252
Of native parentage.....	6,525	5,389	11,914	655	624	1,279	740	615	1,355	809	675	1,484
Of mixed parentage.....	1,318	1,136	2,454	95	95	190	138	142	280	163	122	285
Of foreign parentage.....	14,699	13,886	28,585	1,495	1,348	2,843	1,550	1,544	3,094	1,781	1,549	3,330
Of unascertained parentage.....	537	505	1,042	82	94	176	86	98	184	58	95	153
	PER CENT											
All first admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Of native parentage.....	28.4	26.3	27.4	27.8	28.8	28.3	29.5	25.6	27.7	28.7	27.6	28.3
Of mixed parentage.....	5.8	5.5	5.7	4.1	4.4	4.3	3.0	3.4	3.7	3.9	3.0	3.6
Of foreign parentage.....	63.6	65.3	64.3	63.4	62.4	62.9	61.7	64.4	62.9	63.4	63.5	63.4
Of unascertained parentage.....	2.2	2.9	2.6	3.4	4.4	3.8	3.4	4.1	3.7	2.0	3.9	2.8

TABLE 7 — Percentage of readmissions to the State hospitals for the insane, 1905-1912

PARENTAGE	TOTAL			1905			1906			1907		
	Females		Total	Females		Total	Females		Total	Females		Total
	Males			Males			Males			Males		
NUMBER												
Native-born patients.....	2,766	2,795	5,561	232	301	533	273	288	561	271	284	555
Of native parentage.....	1,475	1,413	2,888	129	161	290	137	145	282	156	180	286
Of mixed parentage.....	286	321	607	23	40	63	23	31	54	22	35	57
Of foreign parentage.....	961	1,019	1,980	75	94	169	107	107	214	84	115	199
Of unknown parentage.....	44	42	86	5	6	11	6	5	11	9	4	13
Foreign-born patients.....	1,260	1,815	3,075	101	198	299	138	172	310	103	173	276
Of native parentage.....	1	2	3	.....	.....	.....	.....	.....	.....	.....	.....	.....
Of mixed parentage.....	6	17	23	1	.....	1	.....	2	2	.....	2	.....
Of foreign parentage.....	1,241	1,780	3,021	98	196	294	135	166	301	101	166	267
Of unknown parentage.....	12	16	28	2	2	4	3	4	7	2	5	7
Nativity unascertained.....	3	4	7	1	.....	1	1	.....	1	.....	1	.....
Parentage unascertained.....	3	4	7	1	.....	1	1	.....	1	.....	1	.....
PER CENT												
Native-born patients.....	68.7	60.6	64.3	69.5	60.3	64.0	66.3	62.6	64.3	72.5	62.0	68.7
Of native parentage.....	36.6	30.6	33.4	38.6	32.3	34.8	33.3	31.5	32.3	41.7	34.4	36.6
Of mixed parentage.....	7.1	7.0	7.0	6.9	18.0	7.6	5.6	6.7	6.2	5.9	7.6	6.9
Of foreign parentage.....	23.9	22.1	22.9	22.5	18.8	20.3	25.9	23.3	24.5	22.5	25.1	23.9
Of unascertained parentage.....	1.1	0.9	1.0	1.5	1.2	1.3	1.5	1.1	1.3	2.4	0.9	1.5
Foreign-born patients.....	31.2	39.3	35.6	30.2	39.7	35.9	33.5	37.4	35.6	27.5	37.8	33.2
Of native parentage.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Of mixed parentage.....	0.1	0.4	0.3	0.3	.....	0.1	.....	0.4	0.3	.....	0.4	0.2
Of foreign parentage.....	30.8	38.6	35.0	29.3	39.3	35.3	32.8	36.1	34.5	27.0	36.3	32.1
Of unascertained parentage.....	0.3	0.3	0.3	0.6	0.4	0.5	0.7	0.9	0.8	0.5	1.1	0.9
Nativity unascertained.....	0.1	0.1	0.1	0.3	.....	0.1	0.2	.....	0.1	.....	0.2	0.1
Parentage unascertained.....	0.1	0.1	0.1	0.3	.....	0.1	0.2	.....	0.1	.....	0.2	0.1

Table 7 — Percentage of readmissions to the State hospitals for the insane, 1905-1912 — (Concluded)

PARENTAGE	1908			1909			1910			1911			1912			
	Males		Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
	NUMBER															
Native-born patients.....	299	312	611	355	359	714	440	382	822	446	429	875	450	440	890	
Of native percentage.....	166	163	329	197	199	396	225	197	422	216	200	416	249	218	467	
Of mixed percentage.....	29	26	55	29	45	74	44	44	105	55	52	107	44	48	92	
Of foreign percentage.....	100	119	219	123	105	228	152	135	287	172	174	348	148	170	318	
Of unknown percentage..	4	4	8	6	10	16	2	6	8	3	3	6	9	4	13	
Foreign-born patients.....	120	201	321	142	214	356	199	263	462	222	300	522	235	294	529	
Of native percentage.....	1	2	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Of mixed percentage.....	119	198	317	141	207	348	193	256	452	221	297	518	233	291	524	
Of foreign percentage.....	.....	.....	.....	1	2	3	2	2	4	.....	.....	.....	2	1	3
Of unknown percentage.....	.....	.....	.....	.....	1	1	.....	1	1	.....	1	1	1	.....	1
Nativity unascertained.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Parentage unascertained.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
PER CENT																
Native-born patients.....	71.4	60.8	65.6	71.4	62.5	66.7	68.9	59.1	64.0	66.8	58.8	62.6	65.6	59.9	62.7	
Of native percentage.....	39.6	31.7	35.3	39.6	34.7	37.0	35.2	30.5	32.9	32.3	27.4	29.8	36.3	29.7	32.9	
Of mixed percentage.....	6.9	5.1	5.9	6.9	7.8	6.9	9.6	6.8	8.2	8.2	7.1	7.6	6.4	6.5	6.5	
Of foreign percentage.....	23.9	23.2	23.5	24.8	18.3	21.3	23.8	20.9	22.3	25.7	23.9	24.8	21.6	23.2	22.4	
Of unascertained parent- age.....	1.0	0.8	0.9	1.2	1.7	1.5	0.3	0.9	0.6	0.6	0.4	0.4	1.3	0.5	0.9	
Foreign-born patients.....	28.6	39.2	34.4	28.6	37.3	33.2	31.1	40.7	35.9	33.2	41.1	37.3	34.3	40.1	37.2	
Of native percentage.....	0.2	0.4	0.3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Of mixed percentage.....	.....	0.2	0.1	.....	0.9	0.5	0.6	0.3	0.4	0.1	0.4	0.3	.....	0.3	0.1
Of foreign percentage.....	28.4	38.6	34.0	28.4	36.1	32.5	30.2	40.1	35.2	33.1	40.7	37.0	34.0	39.7	36.9	
Of unascertained parent- age.....	.....	.....	.....	0.2	0.3	0.2	0.3	0.3	0.3	.....	.....	.....	0.3	0.1	0.2
Nativity unascertained.....	.....	.....	.....	.....	0.2	0.1	.....	0.2	0.1	.....	0.1	0.1	0.1	.....	0.1
Parentage unascertained.....	.....	.....	.....	.....	0.2	0.1	.....	0.2	0.1	.....	0.1	0.1	0.1	.....	0.1

TABLE 8 — Percentage of readmissions to the State hospitals for the insane, 1905-1912
NATIVE, FOREIGN AND UNASCERTAINED, COMBINED

	TOTAL		1905		1906		1907	
	Males	Females	Total	Males	Females	Total	Males	Females
NUMBER								
All readmissions.....	4,029	4,614	8,643	334	499	833	412	458
Of native percentage.....	1,476	1,415	2,891	129	161	290	137	156
Of mixed percentage.....	292	338	630	24	40	64	23	33
Of foreign percentage.....	2,262	2,799	5,061	173	290	463	242	273
Of unascertained percentage.....	59	62	121	8	8	16	10	9
PER CENT								
All readmissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Of native percentage.....	36.6	30.6	33.4	38.6	32.2	34.8	33.3	31.6
Of mixed percentage.....	7.2	7.4	7.3	7.2	8.0	7.7	5.6	7.1
Of foreign percentage.....	54.7	60.7	57.9	51.8	58.1	55.6	58.7	59.4
Of unascertained percentage.....	1.5	1.3	1.4	2.4	1.6	1.9	2.4	2.0
PER CENT								
All readmissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Of native percentage.....	36.6	30.6	33.4	38.6	32.2	34.8	33.3	31.6
Of mixed percentage.....	7.2	7.4	7.3	7.2	8.0	7.7	5.6	7.1
Of foreign percentage.....	54.7	60.7	57.9	51.8	58.1	55.6	58.7	59.4
Of unascertained percentage.....	1.5	1.3	1.4	2.4	1.6	1.9	2.4	2.0

Table 8 — Percentage of readmissions to the State hospitals for the insane, 1905-1912 — (Concluded)

NATIVE, FOREIGN AND UNASCERTAINED, COMBINED

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
All readmissions.....	419	513	932	497	574	1,071	639	646	1,285	668	730	1,398	686	734	1,420
Of native parentage.....	167	165	332	197	199	396	225	197	422	216	200	416	249	218	467
Of mixed parentage.....	29	27	56	29	50	79	65	46	111	56	55	111	44	50	94
Of foreign parentage.....	219	317	536	264	212	576	345	394	739	393	471	864	381	461	842
Of unascertained parent- age.....	4	4	8	7	13	20	4	9	13	3	4	7	12	5	17
PER CENT															
All readmissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Of native parentage.....	39.8	32.1	35.6	39.6	34.7	37.0	35.2	30.5	32.9	32.3	27.4	29.8	36.3	29.7	32.9
Of mixed parentage.....	6.9	5.3	6.0	5.8	8.7	7.4	10.2	7.1	8.6	8.3	7.5	7.9	6.4	6.8	6.6
Of foreign parentage.....	52.3	61.8	57.5	53.2	54.4	53.8	54.0	61.0	57.5	58.8	64.6	61.8	55.6	62.9	59.3
Of unascertained parent- age.....	1.0	0.8	0.9	1.4	2.2	1.8	0.6	1.4	1.0	0.6	0.5	0.5	1.7	0.6	1.2

TABLE 9 — Percentage of all admissions to the State hospitals for the insane, 1905-1912

PARENTAGE	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Native-born patients.....	15,345	13,483	28,828	1,536	1,494	3,030	1,681	1,549	3,230	1,836	1,542	3,378
Of native parentage.....	7,985	6,791	14,776	784	784	1,568	873	757	1,630	964	803	1,767
Of mixed parentage.....	1,540	1,413	2,953	139	130	269	153	172	325	178	150	328
Of foreign parentage.....	5,420	4,866	10,286	549	512	1,061	594	551	1,145	642	532	1,174
Of unknown parentage.....	400	413	813	64	68	132	61	69	130	52	57	109
Foreign-born patients.....	11,609	11,687	23,296	1,148	1,158	2,306	1,229	1,299	2,528	1,343	1,349	2,692
Of native parentage.....	16	13	29	1	1	2	4	3	7	1	2	3
Of mixed parentage.....	70	61	131	12	5	17	8	3	11	7	9	16
Of foreign parentage.....	11,411	11,319	22,730	1,119	1,126	2,245	1,198	1,266	2,464	1,324	1,298	2,622
Of unknown parentage.....	112	194	306	17	26	43	19	27	46	11	40	51
Nativity unascertained.....	84	50	134	9	8	17	16	11	27	6	8	14
Parentage unascertained.....	84	50	134	9	8	17	16	11	27	6	8	14
PER CENT												
Native-born patients.....	56.8	53.7	55.2	57.0	56.2	56.6	57.5	54.2	55.8	57.6	53.2	55.5
Of native parentage.....	29.5	27.0	28.3	29.1	29.5	29.3	29.9	28.5	28.2	30.3	27.7	29.0
Of mixed parentage.....	5.7	5.6	5.7	5.2	4.9	5.0	5.2	6.0	5.6	5.6	5.2	5.4
Of foreign parentage.....	20.1	19.4	19.7	20.4	19.2	19.8	20.3	19.3	19.8	20.1	18.3	19.3
Of unknown parentage.....	1.5	1.7	1.6	2.3	2.6	2.5	2.1	2.4	2.2	1.6	2.0	1.8
Foreign-born patients.....	42.9	46.1	44.5	42.7	43.5	43.1	42.0	45.4	43.7	42.2	46.5	44.3
Of native parentage.....	0.1	0.1	0.1	...	...	...	0.1	0.1	0.1	...	0.1	0.1
Of mixed parentage.....	0.2	0.2	0.2	0.5	0.2	0.3	0.3	0.1	0.2	0.2	0.3	0.3
Of foreign parentage.....	42.2	45.0	43.6	41.6	42.3	42.0	40.9	44.3	42.6	41.6	44.7	43.1
Of unknown parentage.....	0.4	0.8	0.6	0.6	1.0	0.8	0.7	0.9	0.8	0.4	1.4	0.8
Nativity unascertained.....	0.3	0.2	0.2	0.3	0.3	0.3	0.5	0.4	0.5	0.2	0.3	0.2
Parentage unascertained.....	0.3	0.2	0.2	0.3	0.3	0.3	0.5	0.4	0.5	0.2	0.3	0.2

Table 9 — Percentage of all admissions to the State hospitals for the insane, 1905-1912 — (Concluded)

PARENTAGE	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Native-born patients.....	1,929	1,657	3,586	1,995	1,721	3,716	2,137	1,836	3,973	2,089	1,830	3,919	2,142	1,854	3,996
Of native parentage.....	1,010	837	1,847	1,052	893	1,945	1,101	888	1,989	1,084	907	1,991	1,117	922	2,039
Of mixed parentage.....	187	173	360	177	184	361	244	198	442	227	193	420	235	213	448
Of foreign parentage.....	695	589	1,284	718	603	1,321	745	711	1,456	733	697	1,430	744	671	1,415
Of unknown parentage.....	37	58	95	48	41	89	47	39	86	45	33	78	46	48	94
Foreign-born patients.....	1,519	1,547	3,066	1,461	1,447	2,908	1,578	1,585	3,163	1,685	1,569	3,254	1,646	1,633	3,279
Of native parentage.....	6	1	7	8	1	9	13	2	15	3	1	4	2	2	4
Of mixed parentage.....	3	2	5	6	14	20	13	8	21	8	8	16	13	12	25
Of foreign parentage.....	1,494	1,508	3,002	1,440	1,409	2,849	1,556	1,554	3,110	1,660	1,554	3,214	1,620	1,604	3,224
Of unknown parentage.....	16	35	51	14	24	38	8	21	29	14	6	20	13	15	28
Nativity unascertained.....	14	5	19	9	4	13	10	6	16	13	2	15	7	6	13
Parentage unascertained.....	14	5	19	9	4	13	10	6	16	13	2	15	7	6	13
PER CENT															
Native-born patients.....	55.7	51.6	53.7	57.6	54.3	56.0	57.4	53.6	55.6	55.2	53.8	54.5	56.4	53.1	54.8
Of native parentage.....	29.2	26.1	27.7	30.4	28.2	29.3	29.6	25.9	27.8	28.6	26.7	27.7	29.4	26.4	28.0
Of mixed parentage.....	5.4	5.4	5.4	5.1	5.8	5.5	6.5	5.8	6.2	6.0	5.7	5.8	6.2	6.1	6.1
Of foreign parentage.....	20.1	18.3	19.2	20.7	19.0	19.9	20.0	20.8	20.4	19.4	20.5	19.9	19.6	19.2	19.4
Of unknown parentage.....	1.0	1.8	1.4	1.4	1.3	1.3	1.3	1.1	1.2	1.2	0.9	1.1	1.2	1.4	1.3
Foreign-born patients.....	43.9	48.2	46.0	42.2	45.6	43.8	42.3	46.2	44.2	44.5	46.1	45.3	43.4	46.7	45.0
Of native parentage.....	0.2	0.1	0.1	0.2	0.4	0.3	0.3	0.1	0.3	0.1	0.1	0.1	0.1	0.1	0.1
Of mixed parentage.....	0.1	0.1	0.1	0.2	0.4	0.3	0.3	0.2	0.3	0.2	0.2	0.2	0.3	0.3	0.4
Of foreign parentage.....	43.1	47.0	45.0	41.6	44.4	42.9	41.8	45.3	43.5	43.8	45.7	44.7	42.7	45.9	44.2
Of unknown parentage.....	0.5	1.1	0.8	0.4	0.8	0.6	0.2	0.6	0.4	0.4	0.2	0.3	0.4	0.4	0.4
Nativity unascertained.....	0.4	0.2	0.3	0.2	0.1	0.2	0.3	0.2	0.2	0.3	0.1	0.2	0.2	0.2	0.2
Parentage unascertained.....	0.4	0.2	0.3	0.2	0.1	0.2	0.3	0.2	0.2	0.3	0.1	0.2	0.2	0.2	0.2

TABLE 10 — Parentage of all admissions to the State hospitals for the insane, 1905-1912
NATIVE, FOREIGN AND UNASCERTAINED, COMBINED

	Total			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
All admissions.....	27,038	25,120	52,158	2,693	2,693	5,386	2,926	2,859	5,785	3,185	2,809	5,994
Of native parentage.....	8,001	6,804	14,805	784	785	1,569	877	790	1,667	943	805	1,748
Of mixed parentage.....	1,610	1,474	3,084	151	135	286	161	175	336	183	156	339
Of foreign parentage.....	16,831	16,185	33,016	1,688	1,638	3,326	1,792	1,817	3,609	1,966	1,830	3,796
Of unascertained parentage.....	596	657	1,253	90	102	192	96	107	203	99	105	204
PER CENT												
All admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Of native parentage.....	29.6	27.1	28.4	29.1	29.5	29.3	30.0	26.6	28.3	30.3	27.8	29.1
Of mixed parentage.....	5.9	5.8	5.9	5.7	5.1	5.3	5.5	6.1	5.8	5.8	5.5	5.7
Of foreign parentage.....	62.3	64.4	63.3	62.0	61.5	61.8	61.2	63.6	62.4	61.7	63.0	62.4
Of unascertained parentage.....	2.2	2.7	2.4	3.2	3.9	3.6	3.3	3.7	3.5	2.2	3.7	2.8

Table 10 — Percentage of all admissions to the State hospitals for the insane, 1905-1912 — (Concluded)
NATIVE, FOREIGN AND UNASCERTAINED, COMBINED

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
All admissions.....	3,462	3,209	6,671	3,465	3,172	6,637	3,725	3,427	7,152	3,787	3,401	7,188	3,795	3,493	7,288
Of native parentage.....	1,016	839	1,855	1,053	893	1,946	1,102	890	1,992	1,087	908	1,995	1,117	924	2,041
Of mixed parentage.....	190	175	365	183	198	381	257	206	463	235	201	436	248	225	473
Of foreign parentage.....	2,198	2,097	4,296	2,158	2,012	4,170	2,301	2,265	4,566	2,393	2,251	4,644	2,364	2,275	4,639
Of unascertained parent- age.....	67	98	165	71	69	140	65	66	131	72	41	113	66	69	135
PER CENT															
All admissions.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Of native parentage.....	29.4	26.2	27.8	30.4	28.2	29.3	29.6	26.0	27.8	28.7	26.7	27.8	29.4	26.5	28.0
Of mixed parentage.....	5.5	5.5	5.5	5.3	6.2	5.8	6.8	6.0	6.5	6.9	5.9	6.0	6.5	6.4	6.5
Of foreign parentage.....	63.2	65.3	64.2	62.3	63.4	62.8	61.8	66.1	63.9	63.2	66.2	64.6	62.3	65.1	63.6
Of unascertained parent- age.....	1.9	3.1	2.5	2.0	2.2	2.1	1.8	1.9	1.8	1.9	1.2	1.6	1.8	2.0	1.9

TABLE 11 — Citizenship of first admissions to the State hospitals for the insane, 1905-1912

	Total			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Citizens by birth.....	12,579	10,688	23,267	1,304	1,193	2,497	1,408	1,261	2,669	1,565	1,258	2,823
Citizens by parentage.....	20	16	36	4	4	8	4	3	7	2	3	5
Citizens by naturalization.....	1,989	2,238	4,227	177	145	322	147	274	421	240	335	575
Aliens.....	7,398	6,515	13,913	668	617	1,285	834	706	1,540	937	774	1,711
Citizenship unascertained.....	1,023	1,049	2,072	206	202	408	121	155	276	67	71	138
Total.....	23,009	20,506	43,515	2,359	2,161	4,520	2,514	2,399	4,913	2,811	2,441	5,252
PER CENT												
Citizens by birth.....	54.7	52.1	53.5	55.3	55.2	55.3	56.0	52.6	54.3	55.7	51.5	53.8
Citizens by parentage.....	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1
Citizens by naturalization.....	8.6	10.9	9.7	7.5	6.7	7.1	5.8	11.4	8.6	8.5	13.7	10.9
Aliens.....	32.2	31.8	31.9	28.3	28.6	28.4	33.2	29.4	31.4	33.3	31.7	32.6
Citizenship unascertained.....	4.4	5.1	4.8	8.7	9.3	9.0	4.8	6.5	5.6	2.4	2.9	2.6
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 11 — Citizenship of first admissions to the State hospitals for the insane, 1905-1912 — (Concluded)

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Citizens by birth.....	1,630	1,345	2,975	1,640	1,362	3,002	1,697	1,454	3,151	1,643	1,401	3,044	1,662	1,414	3,106
Citizens by parentage.....	3	.....	3	2	1	3	2	.....	2	2	1	3	1	4	5
Citizens by naturalization.....	260	336	596	249	236	485	252	248	500	283	294	577	381	370	751
Aliens.....	1,037	912	1,949	949	912	1,861	1,002	935	1,937	1,073	836	1,909	898	823	1,721
Citizenship unascertained.....	113	103	216	128	87	215	133	144	277	118	139	257	137	148	285
Total.....	3,043	2,696	5,739	2,968	2,598	5,566	3,086	2,781	5,867	3,119	2,671	5,790	3,109	2,759	5,868
PER CENT															
Citizens by birth.....	53.6	49.9	51.8	55.3	52.4	53.9	55.0	52.3	53.7	52.7	52.5	52.6	54.4	51.3	52.9
Citizens by parentage.....	0.1	.....	0.1	0.1	.....	0.1	0.1	.....	0.1	0.1	.....	0.1	.....	0.1	0.1
Citizens by naturalization.....	8.5	12.5	10.4	8.4	9.1	8.7	8.1	8.9	8.5	9.0	11.0	10.0	12.3	13.3	12.8
Aliens.....	34.1	33.8	33.9	31.9	35.1	33.4	32.5	33.6	33.0	34.4	31.3	32.9	28.9	29.3	29.3
Citizenship unascertained.....	3.7	3.8	3.8	4.3	3.4	3.9	4.3	5.2	4.7	3.8	5.2	4.4	4.4	5.4	4.9
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

TABLE 12 — Citizenship of readmissions to the State hospitals for the insane, 1905-1912

	Total			1905			1906			1907		
	Males		Total	Males		Females	Males		Females	Males		Females
NUMBER												
Citizens by birth.....	2,766	2,795	5,561	232	301	533	273	288	561	271	284	555
Citizens by parentage.....	2	3	5	.....	.....	.....	.....	.....	.....	.....	.....	.....
Citizens by naturalization.....	290	425	715	23	36	59	26	50	76	23	44	67
Aliens.....	704	1,201	1,905	53	132	185	95	101	196	66	111	177
Citizenship unascertained.....	177	190	367	26	30	56	16	21	37	14	19	33
Total.....	4,029	4,614	8,643	334	499	833	412	460	872	374	458	832
PER CENT												
Citizens by birth.....	68.7	60.6	64.3	69.5	60.3	64.0	66.3	62.6	64.3	72.5	62.0	66.7
Citizens by parentage.....	.....	0.1	0.1	.....	.....	.....	0.5	.....	0.2	.....	.....	.....
Citizens by naturalization.....	7.2	9.2	8.3	6.8	7.2	7.1	6.3	10.9	8.7	6.2	9.6	8.0
Aliens.....	19.7	26.0	23.1	15.9	26.5	22.2	23.0	21.9	22.5	17.6	24.2	21.3
Citizenship unascertained.....	4.4	4.1	4.2	7.8	6.0	6.7	3.9	4.6	4.3	3.7	4.2	4.0
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 12 — Citizenship of readmissions to the State hospitals for the insane, 1905-1912 — (Concluded)

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Citizens by birth.....	299	312	611	355	359	714	440	382	822	446	429	875	450	440	890
Citizens by parentage.....	33	59	92	28	43	71	36	50	86	59	2	61	62	79	141
Citizens by naturalisation.....	71	122	193	81	143	224	144	182	326	145	211	356	139	199	338
Aliens.....	16	20	36	33	28	61	19	32	51	18	24	42	35	16	51
Citizenship unascertained.....															
Total.....	419	513	932	497	574	1,071	639	646	1,285	668	780	1,398	686	784	1,420
PER CENT															
Citizens by birth.....	71.4	60.8	65.6	71.4	62.5	66.7	68.9	59.1	64.0	66.8	58.8	62.6	65.6	59.9	62.7
Citizens by parentage.....	7.9	11.5	9.8	5.6	0.2	0.1	5.6	7.7	6.7	8.8	0.3	0.1	0.9	10.8	9.9
Citizens by naturalisation.....	16.9	23.8	20.7	16.3	24.9	20.9	22.5	28.2	25.4	21.7	28.9	25.5	20.3	27.1	23.8
Aliens.....	3.8	3.9	3.9	6.7	4.9	5.7	3.0	5.0	3.9	2.7	3.3	3.0	5.1	2.2	3.6
Citizenship unascertained.....															
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

TABLE 13 — Citizenship of all admissions to the State hospitals for the insane, 1905-1912

	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Citizens by birth.....	15,345	13,483	28,828	1,536	1,494	3,030	1,681	1,549	3,230	1,836	1,542	3,378
Citizens by parentage.....	22	10	41	4	4	8	6	3	9	2	3	5
Citizens by naturalization.....	2,270	2,663	4,933	200	181	381	173	324	497	263	379	642
Aliens.....	8,192	7,716	15,908	721	749	1,470	929	807	1,736	1,003	885	1,888
Citizenship unascertained.....	1,200	1,239	2,439	232	232	464	137	176	313	81	90	171
Total.....	27,038	25,120	52,158	2,693	2,660	5,353	2,926	2,859	5,785	3,185	2,899	6,084
PER CENT												
Citizens by birth.....	56.8	53.7	55.3	57.0	56.2	56.6	57.5	54.2	55.8	57.6	53.2	55.5
Citizens by parentage.....	0.1	0.1	0.1	0.2	0.2	0.1	0.2	0.1	0.2	0.1	0.1	0.1
Citizens by naturalization.....	8.4	10.6	9.4	7.4	6.8	7.1	5.9	11.3	8.6	8.3	13.1	10.6
Aliens.....	30.3	30.7	30.5	26.8	28.1	27.5	31.7	28.2	30.0	31.5	30.5	31.0
Citizenship unascertained.....	4.4	4.9	4.7	8.6	8.7	8.7	4.7	6.2	5.4	2.5	3.1	2.8
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 13 — Citizenship of all admissions to the State hospitals for the insane, 1905-1912 — (Concluded)

	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Citizens by birth.....	1,929	1,657	3,586	1,995	1,721	3,716	2,137	1,836	3,973	2,088	1,830	3,919	2,142	1,854	3,996
Citizens by parentage.....	3	.....	3	2	2	4	2	.....	2	2	3	5	1	4	5
Citizens by naturalization.....	293	395	688	277	279	556	288	298	586	342	358	700	443	449	892
Aliens.....	1,108	1,034	2,142	1,030	1,055	2,085	1,146	1,117	2,263	1,218	1,047	2,265	1,037	1,022	2,059
Citizenship unascertained.....	129	123	252	161	115	276	152	176	328	136	163	299	172	164	336
Total.....	3,462	3,209	6,671	3,465	3,172	6,637	3,725	3,427	7,152	3,787	3,401	7,188	3,795	3,493	7,288
PER CENT															
Citizens by birth.....	55.7	51.6	53.7	57.6	54.3	56.0	57.4	53.6	55.6	55.2	53.8	54.5	56.4	53.1	54.8
Citizens by parentage.....	0.1	.....	0.1	0.1	0.1	0.1	0.1	.....	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Citizens by naturalization.....	8.5	12.4	10.3	8.0	8.5	8.4	7.7	8.7	8.2	9.0	10.5	9.7	11.7	12.9	12.2
Aliens.....	32.0	32.2	32.1	29.7	33.2	31.4	30.8	32.6	31.2	32.1	30.8	31.5	27.3	29.2	28.3
Citizenship unascertained.....	3.7	3.8	3.5	4.0	3.6	4.1	4.0	5.1	4.6	3.6	4.8	4.2	4.6	4.7	4.6
Total.....	100.0	100.0	100.0	100.0	100.00	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

TABLE 14 — Time in United States before admission of aliens and patients whose citizenship is unascertained
FIRST ADMISSIONS, 1905-1912

Time	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Within 3 years after entry in United States.....	1,567	1,264	2,831	140	108	248	186	154	340	217	186	403
More than 3 years but within 5 years after entry in United States.....	785	608	1,483	57	53	115	75	73	148	100	59	159
More than 5 years after entry in United States.....	5,317	4,954	10,271	555	555	1,140	605	554	1,159	563	522	1,085
Time unascertained.....	752	648	1,400	92	98	190	89	80	169	124	78	202
Total.....	8,421	7,564	15,985	874	819	1,693	955	861	1,816	1,004	845	1,849
PER CENT												
Within 3 years after entry in United States.....	18.6	16.7	17.7	16.0	13.2	14.7	19.5	17.9	18.7	21.6	22.0	21.8
More than 3 years but within 5 years after entry in United States.....	9.3	9.2	9.3	6.5	7.1	6.8	7.9	8.5	8.2	10.0	7.0	8.6
More than 5 years after entry in United States.....	63.2	65.5	64.3	67.0	67.8	67.3	63.3	64.3	63.8	56.1	61.8	58.7
Time unascertained.....	8.9	8.6	8.7	10.5	11.9	11.2	9.3	9.3	9.3	12.3	9.2	10.9
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 14 — Time in United States before admission of aliens and patients whose citizenship is unascertained —
(Concluded)
FIRST ADMISSIONS, 1905-1912

Time	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Within 3 years after entry in United States.....	251	184	435	197	178	375	195	149	344	185	138	323	196	167	363
More than 3 years but within 5 years after entry in United States.....	108	90	198	95	104	199	135	105	240	131	118	249	84	91	175
More than 5 years after entry in United States.....	673	633	1,306	692	641	1,333	719	737	1,456	785	653	1,438	695	650	1,344
Time unascertained.....	118	108	226	93	76	169	88	88	174	90	66	156	60	54	114
Total.....	1,150	1,015	2,165	1,077	999	2,076	1,135	1,079	2,214	1,191	975	2,166	1,035	971	2,006
PER CENT															
Within 3 years after entry in United States.....	21.8	18.1	20.1	18.3	17.8	18.1	17.2	13.8	15.5	15.5	14.1	14.9	18.9	17.2	18.1
More than 3 years but within 5 years after entry in United States.....	9.4	8.9	9.2	8.8	10.4	9.6	11.9	9.7	10.8	11.0	12.1	11.5	8.1	9.4	8.7
More than 5 years after entry in United States.....	58.5	62.4	60.3	64.3	64.2	64.2	63.3	68.3	65.8	65.9	67.0	66.4	67.2	67.8	67.5
Time unascertained.....	10.3	10.6	10.4	8.6	7.6	8.1	7.6	8.2	7.9	7.6	6.8	7.2	5.8	5.6	5.7
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 15 — Time in United States before readmission of aliens and patients whose citizenship is unascertained —
(Continued)
READMISSIONS, 1905-1912

Time	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Within 3 years after entry in United States.....	6	6	12	5	6	11	19	13	32	11	9	20	9	10	19
More than 3 years, but within 5 years after entry in United States.....	3	4	7	2	5	7	11	9	20	9	12	21	5	16	21
More than 5 years after entry in United States.....	74	120	194	105	147	252	126	182	308	126	186	312	153	183	336
Time unascertained.....	4	12	16	2	13	15	7	10	17	17	28	45	7	6	13
Total.....	87	142	229	114	171	285	163	214	377	163	235	398	174	215	389
PER CENT															
Within 3 years after entry in United States.....	6.9	4.2	5.2	4.3	3.5	3.9	11.7	6.1	8.5	6.8	3.8	5.0	5.2	4.7	4.9
More than 3 years, but within 5 years after entry in United States.....	3.4	2.8	3.1	1.8	2.9	2.4	6.7	4.2	5.3	5.5	5.1	5.3	2.9	7.4	5.4
More than 5 years after entry in United States.....	85.1	84.5	84.7	92.1	86.0	88.4	77.3	85.0	81.7	77.3	79.2	78.4	87.9	85.1	86.4
Time unascertained.....	4.6	8.5	7.0	1.8	7.6	5.3	4.3	4.7	4.5	10.4	11.9	11.3	4.0	2.8	3.3
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

TABLE 16 — Time in United States before admission of aliens and patients whose citizenship is unascertained
ALL ADMISSIONS, 1905-1912

Time	TOTAL			1905			1906			1907		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER												
Within 3 years after entry in United States.....	1,629	1,317	2,946	143	111	254	195	157	352	217	189	406
More than 3 years, but within 5 years after entry in United States.....	824	772	1,596	61	71	132	79	81	160	101	66	167
More than 5 years after entry in United States.....	6,124	6,120	12,244	650	660	1,310	666	659	1,325	630	630	1,260
Time unascertained.....	815	746	1,561	99	109	208	96	86	182	136	90	226
Total.....	9,392	8,955	18,347	953	981	1,934	1,066	983	2,049	1,084	975	2,059
PER CENT												
Within 3 years after entry in United States.....	17.3	14.7	16.1	15.0	11.3	13.1	18.3	16.0	17.2	20.0	19.4	19.7
More than 3 years, but within 5 years after entry in United States.....	8.8	8.6	8.7	6.4	7.3	6.8	7.4	8.2	7.8	9.3	6.8	8.1
More than 5 years after entry in United States.....	65.2	68.4	66.7	68.2	70.3	69.3	65.3	67.0	66.1	58.1	64.6	61.2
Time unascertained.....	8.7	8.3	8.5	10.4	11.1	10.8	9.0	8.8	8.9	12.6	9.2	11.0
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 16 — Time in United States before admission of aliens and patients whose citizenship is unascertained —
(Concluded)
ALL ADMISSIONS, 1905-1912

Time	1908			1909			1910			1911			1912		
	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total
NUMBER															
Within 3 years after entry in United States.....	257	190	447	202	184	386	214	182	376	196	147	343	205	177	382
More than 3 years, but within 5 years after entry in United States.....	111	94	205	97	109	206	146	114	260	140	130	270	89	107	196
More than 5 years after entry in United States.....	747	753	1,500	797	788	1,585	845	919	1,764	911	839	1,750	848	842	1,690
Time unascertained.....	122	120	242	95	89	184	93	98	191	107	94	201	67	60	127
Total.....	1,237	1,157	2,394	1,191	1,170	2,361	1,298	1,293	2,591	1,354	1,210	2,564	1,209	1,186	2,395
PER CENT															
Within 3 years after entry in United States.....	20.8	16.4	18.7	17.0	15.7	16.4	16.5	12.5	14.5	14.5	12.2	13.4	17.0	14.9	16.4
More than 3 years, but within 5 years after entry in United States.....	9.0	8.1	8.6	8.1	9.3	8.7	11.2	8.8	10.0	10.3	10.7	10.5	7.4	9.0	8.2
More than 5 years after entry in United States.....	60.4	65.1	62.6	66.9	67.4	67.1	65.1	71.1	68.1	67.3	69.3	68.3	70.1	71.0	70.1
Time unascertained.....	9.8	10.4	10.1	8.0	7.6	7.8	7.2	7.6	7.4	7.9	7.8	7.8	5.5	5.1	5.3
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

TABLE 17 — Annual per capita cost of maintenance of patients in New York State hospitals, 1905-1912

STATE HOSPITAL	1905	1906	1907	1908	1909	1910	1911	1912	Average for 8 years
Utica.....	\$200 75	\$196 35	\$196 53	\$192 61	\$198 52	\$203 61	**203 67	**203 98	\$199 50
Willard.....	182 20	176 08	181 00	186 06	190 54	184 97	186 24	200 80	186 24
Hudson River.....	192 64	198 39	204 53	195 12	202 05	202 27	190 68	224 16	201 23
Middletown.....	189 40	188 45	190 37	192 53	189 66	187 77	183 34	190 56	189 01
Buffalo.....	193 71	193 53	190 37	192 53	194 28	192 81	190 09	196 70	192 30
Binghamton.....	199 88	199 23	197 75	184 48	189 32	186 27	183 33	203 99	193 03
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Total.....	\$181 70	\$183 87	\$186 92	\$184 44	\$191 04	\$189 18	\$189 71	\$203 45	\$188 66

* The per capita cost for 1911 and 1912 was determined by dividing the total cost by the daily average number of patients excluding paroles. Before 1911 the paroles were not excluded.

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STATE OF NEW YORK

No. 30

IN SENATE

FEBRUARY 23, 1914.

MESSAGE FROM THE GOVERNOR

SUGGESTING THE

CREATION OF A COURT OF INQUIRY.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

ALBANY, N. Y., *February 23, 1914.*

TO THE LEGISLATURE:

I respectfully suggest a way to take investigations out of politics and politics out of investigations.

I respectfully suggest a way to have investigations within reason and reason in investigations.

I suggest that the Legislature create a Court of Inquiry to be composed of the living ex-Judges of the Court of Appeals.

They are seven in number, and three of them now serve the State as official referees. These three are Judge Albert Haight, Judge Irving G. Vann and Judge John Clinton Gray.

The other four — Judge Charles Andrews, Judge Edgar M. Cullen, Judge Alton B. Parker and Judge Charles H. Brown — or

as many of them as necessary, could probably be induced from a sense of civic duty to serve when absolutely needed.

At present New York State is conducting a "four-ring circus" of investigations. The taxpayer is not only paying the price of admission, but is hiring the performers as well. Carried to its logical conclusion, the present situation would soon demand an investigation to investigate the investigators.

During the next year the Highway Department of New York will be called upon to expend approximately fifteen million dollars for the construction, improvement and maintenance of the State's highways.

Unless the Legislature is prepared to let a perplexed department spend fifteen million dollars of the State's money, it must turn the present epidemic of investigations into a single deliberate and impartial inquiry.

Where matters have progressed far enough to be the subject of a grand jury proceeding, neither the Governor nor the Legislature should attempt to interfere.

We can, however, consolidate three State investigations into one, and make that investigation such that it will command the confidence and approval of every citizen.

If the public were convinced that our present investigations are impartial and thorough, if it were sure that a desire to get at the truth is their inspiration rather than an unworthy hope to secure political capital; there might be some excuse for the piling of one investigation upon another.

At present, however, the average citizen is convinced that findings are colored by politics, and results obscured by partisanship.

I, therefore, call upon the Legislature to bring order out of chaos: I request it to create a Court of Inquiry that will give the public the truth, the whole truth, and nothing but the truth.

Instead of four or more investigations, let us have one. Let that investigation be so thorough and impartial that no public officer can believe himself persecuted, and no private citizen consider himself deceived! Let the State enlist the assistance of the ex-Judges of its Court of Appeals! It will no doubt be a distasteful task to the Judges, who have retired from the highest court of the State, to turn their attention to work of this kind. I have

confidence enough, however, in their patriotism and public spirit to believe that they will take this burden upon themselves when they realize that it is the only way to restore the good name of the State and permit great public improvements to be completed with economy and dispatch.

By chapter 229 of the Laws of 1911, Judges of the Court of Appeals retiring from that Court by reason of the age limit of seventy years, are made official referees of actions in which the people of the State of New York are a party, by filing their consent so to serve. This consent has already been filed by Judge Irving G. Vann, Judge Albert Haight, and Judge John Clinton Gray. They are paid for their services an annual salary of \$6,000 each.

I urge upon the Legislature the advisability of broadening chapter 229 of the Laws of 1911, and of constituting these eminent Judges into a Tribunal of Inquiry for the investigation of all matters concerning any department of the State service, or the administration of any law which the Governor or the Legislature or the taxpayers believe important enough for judicial attention.

Such a tribunal would entail no additional expense on the State.

Such a tribunal would be of a character to command universal respect. Its work would be promptly, efficiently and honestly performed.

Such a tribunal would understand the questions that need investigation. It would understand the law and know when it is violated. It would understand the obligations upon public officers and know when those obligations have been ignored. It could carry on its investigations pursuant to well-understood rules of procedure. It would apply to those investigations proper rules of evidence. It would understand the environments which the Constitution places around the citizen, and save him from unnecessary annoyance and persecution. It would understand and uphold the interests of the people. It would be a welcome substitute for the sensational investigations that long have agitated the public mind.

To this tribunal I would give the fullest power of subpoena, the fullest power to employ whatever attorneys, experts, investigators or assistants it may require.

At the present time there are four separate and distinct investigations pending of public affairs and departments in the State of New York. An investigation is being carried on by a Commissioner appointed by me under the Moreland Act. A Senate investigating committee has been in existence for some time and has been conducting investigations. A third investigation is planned by the Assembly. Various grand juries throughout the State are making inquiries on precisely the same subjects of investigation, dealing with the same evidence, seeking to expose the same allegations of graft. These investigations have already disturbed the orderly administration of some of the departments, and have thrown the work of the State into confusion without reaching the wrong-doings aimed at, and without bringing offenders to justice.

While it is important to discover and punish past offences against the State, it is equally important to prevent their repetition. While it is prudent to learn how much of the State's money has been misapplied in the past; it is equally prudent to make sure that public money is not being wasted at the present time, and to prevent its waste in the future. The money of the taxpayers of New York can be conserved only when those in charge of that money are able to perform their duties efficiently and well. A public officer cannot discharge his official duties satisfactorily when his department is being torn and distracted by a constant succession and a needless duplication of investigations covering the same ground and repeating the same facts.

In the Highway Department, which has faced investigations during the present year from four different quarters, records which should be here in Albany are scattered miscellaneously throughout the State; its employees have been taken from their regular occupations, not to attend upon one tribunal, but at different times to attend before several; going over precisely the same questions, examining the same evidence, threshing over old straw, and giving sensational statements to the public often unsupported by facts, often contrary to law, leading to no good, punishing no crime, saving no money, and furnishing to the State no information upon which additional safeguards may be built.

No one with experience in great undertakings, especially in public office with its manifold responsibilities and almost infinite

details, can believe that men thus harried and persecuted and subjected to duplicated distractions and thrice-told humiliations can discharge their duties with a high degree of efficiency.

Justice does not require sensational means to reach its ends. The detection of crime does not require, indeed it forbids, partisan or personal means of detection. The law must be upheld. Dishonesty must be driven out of public life. Efficiency must be substituted for inefficiency. These needs are self-evident. The time has come in this State to appeal to the law and to the common sense and patience of our people. The time has come to stop persecution under the guise of prosecution which brings only calamity in its train, and to substitute honest investigations regulated by legal procedure and made to conform to rules of justice.

Justice does not require; the people do not want innuendoes and covert attacks whose only purpose is possibly to glorify the investigator, to answer some partisan ends, and through suggestion and innuendo to drive men to distraction, catastrophe and ruin.

If our present system of inquisitorial investigation continues, only those men will seek public office who are incapable of appreciating, or insensible to, such malicious attacks.

Crime cannot be pursued by hue and cry. Dishonest men cannot be driven out of public life by head-hunting. In the pretense of punishing malefactors, innocent men should not be destroyed. For the purpose of detecting guilt, Truth must not be crucified. The public mind must not be confused by insinuations that have no basis, by innuendoes that have no facts behind them and whose only purpose is to destroy those against whom they are aimed. Truth and justice can only prevail when set out in accordance with those principles and in accordance with those institutions which represent the growth and stability of government by law.

The Temple of Law should not be desecrated into a hippodrome of politics. Prosecution should not be dragged down into the mire of persecution. Partisan malevolence should not be allowed to tip the scales of justice for sinister purposes. The sword of justice should not be sharpened on one side by political grindstones, nor dulled on the other by political mechanics. Justice

should see with both eyes, or with neither eye; but never with one eye.

Every end of justice would be served, every motive of partisanship frustrated by the formation of this Court of Inquiry composed of the living ex-Judges of our Court of Appeals.

Such a tribunal would command public respect and merit universal confidence.

Such a tribunal would injure no man but the dishonest, and protect none but the honest; and that is what New York needs today.

MARTIN H. GLYNN.

The Training of Girls

TENTH ANNUAL REPORT
OF THE
BOARD OF MANAGERS
OF THE
NEW YORK STATE
TRAINING SCHOOL FOR GIRLS
AT
HUDSON, N. Y.

FOR THE YEAR ENDING SEPTEMBER 30, 1913

TRANSMITTED TO THE LEGISLATURE FEBRUARY 23, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914

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November 1, 1913.

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Assistant Superintendent.

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Resident Physician.

* _____

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 M. Lizzie Robertson.
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 Minnie R. Rowe.
 Lottie Ferrick.
 Ella A. Myers.
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 Winifred M. O'Rourke.
 Katherine A. Tully.
 Ida M. Field.

Marian S. Tuger.

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 Mary M. Norris.....Nurse.

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Mary D. Dusinberre.
 Julia A. McGraw.
 Ellen L. Baker.

Sarah E. Hicks.
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† _____

Edwin C. Rowley.....Vocal Music.
 Minnie R. McDowell.....Physical Instructor.

* Temporarily vacant — position filled by Assistant Matron.

† Temporarily vacant.

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Bessie Ferguson.....Cooking.
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 Mary E. Cassin.....Plain Sewing.
 Anna B. Olmstead.....Model Sewing.
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 Lizzie E. Eggleston.....Garden.

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 McKenzie Parks.

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 Christopher U. Green, Assistant. Burton C. Frezon, Assistant.

Firemen.

Frank Mocco. Isaac F. Sutherland.
 John Griffin.

Carpenter.

Luke Martin.

Painter.

Wilson Ham.

Coachman.

Edward W. Ham.

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Joseph Martin. Julius Gunther.
 Jerry Connell.

Mason and General Helper.

Justino D'Ingiullo.

Farmer.

* _____

Teamster.

Louiz Fink.

* Temporarily vacant.

STATE OF NEW YORK

No. 31.

IN SENATE

FEBRUARY 23, 1914.

TENTH ANNUAL REPORT OF THE BOARD OF MANAGERS OF THE NEW YORK STATE TRAINING SCHOOL FOR GIRLS, AT HUDSON, N. Y.

HUDSON, N. Y., November 1, 1913.

To the Legislature of the State of New York:

The board of managers of the New York State Training School for Girls, as required by law, respectfully submits its report for the year ending September 30, 1913.

During the year, several changes have been made in the board. Mr. Charles Howard Strong, of New York City, for many years its valued president, resigned. The vacancy so caused is filled by a former member, Mrs. Annie Winsor Allen, of White Plains. The board regrets the long and necessary absence of Mrs. F. F. Peabody in Europe. The unexpired term of Mr. H. McKie Wing, of Glens Falls, was filled by appointment of Mr. Frederick C. Brown, of New York City, who was later succeeded by Miss Edith A. Reiffert, of New York City.

The board has met at the School regularly each month of the year, besides holding necessary special meetings. The secretary has been present at all meetings, which completes for her an almost perfect attendance record with devoted and accurate service during fourteen years. The president was unable to attend one meeting. The members of the board have been frequently, in fact almost

constantly, at the School or about its business during the stamping out of the serious epidemic of trachoma which began June, 1912, and in the general reorganizing following the lifting of an eight months' quarantine with the sudden influx of an unprecedented number of new girls. During most of the year, while the School was searching for a resident physician, Dr. Thomas Wilson was in constant attendance at the School, assuming personally most of the medical work of receiving the new girls and taking responsibility for the usual care of all others, adding these services to his duties as treasurer and executive committee of the board. Dr. Wilson's fellow members wish here to express their grateful appreciation of his ever-ready, self-sacrificing services.

The School is for the training of destitute, neglected and delinquent girls committed by the courts from all parts of the State, when between the ages of twelve and sixteen, and kept under the guardianship of the board of managers, either at the School or on parole until twenty-one years of age. The School depends upon the State for all funds, there being no expense to any county, city, town, village or individual for the transportation, clothing, maintenance, medication or education of girls committed to the School.

Outfit.

The School property, comprising about 117 acres of ravines and small plateaux, is located partly within and adjacent to the city of Hudson. Several nearby railroads, while of service and convenience to the School, are not attractive as a foreground, and with present fencing are conducive to escapes. A valuable part of the School's location is the constant beauty of the Catskills, the Hudson River and neighboring hills. All the permanent buildings of the School are built of brick in a simple Dutch style that fits well with the landscape, location and uses.

The School has now in use twelve cottages, each of which provides a complete home with separate sleeping rooms for a family averaging twenty-six girls and three officers. Four of these cottages are the newer, two-story type, which makes housekeeping and training of girls a simpler problem than is the necessary supervision of the girls in the older three-story cottages. Two new cottages are in process of construction, these will probably be occupied by June, 1914, and will provide for about the same number that the old prison building — Stuyvesant — has been sheltering. An appropriation was granted during the year for the demolition of this old

congregate prison. It is expected that before the occupancy of the new cottages, Stuyvesant will be a fading memory.

The School plant includes several large and some small buildings. The large buildings are: (1) The chapel gymnasium, which houses much of the School's faith and fun, where union services of a form carefully prepared and approved by all churches are held every Sunday afternoon, conducted in turn by ministers of various faiths; where religious instruction classes are held every Friday afternoon, for which the girls are divided into groups according to the faiths which they profess, a suitable teacher from outside being provided for each group; where singing classes meet four times each week, and where gymnasium classes and active games are in progress in the basement daily after school hours. (2) The administration building, where the steward, bookkeepers, parole agents, and the marshal, the superintendent and her assistant live and have their offices, and where the physician and several teachers eat and sleep; where several girls are housed most unsatisfactorily, and where the common hallways provide the only place on the grounds where relatives or friends may visit either girls or officers. Immediately following the lifting of quarantine for trachoma last winter, a School painter was hired; this one employee with assistance from the girls, under the supervision of the matrons, has painted and papered as much of this building as was possible until the alterations to the top floor, making over the girls' rooms for officers, is completed. (3) Stuyvesant, the old prison building, about to be demolished. (4) An industrial school building, now housing in ten rooms eight grades of book school, three grades of sewing classes, the cooking and laundry classes. It is expected that the new school building now being constructed will provide for all grade school classes, also provide for a library and a manual training room. After the transfer of grade schools from the industrial building, the board hoped it would be possible to use this building entirely for industrial work, enlarging the cooking and sewing classes. Efforts have been made during the year to alter the laundry school rooms located here and install some necessary machinery. The ruling which forbids the use of basements for laundry and the lack of necessary floor strength to support machinery, makes a change of plan necessary. Moreover, the walls of this building which were repaired last year, are again cracking. (5) A rambling, patched wooden building, formerly a hospital, then a cottage long since condemned, and during this year used as the home of the

coachman and family, the home for some teachers, the eye clinic, some special classes, quarantine quarters for some contagious diseases, which arose during the year, and for storehouse. (6) A power house and coal pockets, situated beside the Boston & Albany tracks, modern in equipment and well suited to the present and growing needs of the School. (7) An ancient, wooden stable.

Among the smaller buildings are the storehouse and an ice house, to replace which appropriations have been granted for a storehouse, including a refrigerating plant. When the new storehouse has been erected, the present building will be convertible into a good dwelling. The smaller buildings also include a pavilion or disciplinary building, which is very unsatisfactory and has been condemned by the State architect's deputies and many other inspectors as faulty in construction and ventilation.

The complete equipment of the School with land, buildings and all necessary outfit, according to approved plans, will bring the capacity up to 500. Five hundred girls at the School is about as large a number as a superintendent can know individually and supervise personally at one time. The School's parole system continues valuable training to a large number of girls throughout the State. By operation of the laws of 1909, which gives the School guardianship over the girls until their twenty-first birthday, the time is rapidly approaching when the outside, or paroled, population will equal the inside population of the School; therefore, with the capacity for 500, the School will have under its protection approximately 1,000 girls for whose proper care the superintendent is responsible. Adequate equipment for 500 girls means a "graduation diploma," literally a "discharge paper," granted annually to 200 girls, hence 2,000 girls every ten years would pass through the formatory or readjusting processes of the School. Good women are the nuclei of good homes, good homes the foundation of the State, therefore, this School endeavors to train the girls committed here to become good home makers. Barring the third who are mental defectives, the School returns to the State as reasonably good nuclei for desirable homes most of those annually discharged.

Pupils.

The pupils are the factors determining both the work and the methods of the School, which exists to meet their needs. Our hope is to raise the ideals and standards of every girl received here, taking each girl as the measure for herself, we labor

so to improve each girl that in the long life before her she may be able to attain more nearly the goal we have set for her. We must enter into the souls of these children, feel with their senses—often dull and untrained; judge with their judgment, warped by prejudices and suspicions; think their thoughts, appreciate the meaning they give to the words they use—before we are able to remove obstacles and guide into new and better paths. The same kinds of homes which for years have furnished the class of girls received here, are still sending the material which we endeavor to form. Our pupils come from the overcrowded city tenement in which can be little privacy or decency; from miserable country homes with bad conditions; from homes where one or both parents drink or lead lives of vice; from homes where the parents or guardians are merely careless, indifferent, neglectful, over-indulgent, sick and irritable, bad tempered and unreasonable, over-worked and underfed, weak and ignorant, a prey to conditions new to them, misunderstanding both the girl and community; from other institutions; and from foster homes, where sometimes their lot has been neglect, friendlessness and abuse.

The product of such parentage, homes and environment, is girls ignorant of morals, letters, manners, truth, honor and decencies of life, sometimes defiant and hopeless; girls with false ideas of their physical natures, developed beyond their years by harmful environment; girls habitually uncontrolled, accustomed to gaining their ends by exhibitions of violent passion or by deceit; girls mentally defective; girls forced by circumstances into situations wherein they were likely to become depraved. It should be distinctly understood that not all girls who are sent here have committed immoral acts, and the fact should likewise be recognized that young girls who have been led or enticed to commit acts termed immoral are themselves more often amoral than immoral. The word immoral is more applicable to the men who have led astray these young girls than it usually is to their victims. If there is any stigma to be attached to the name of a girl because she has come under the care of this School, that stigma should be shared by the persons who are responsible for her destitute, neglected or delinquent condition.

The concrete problem of the School is to bring forth good citizens from the material sent here. To solve the problem, we must analyze family histories, formative influences, mental, moral and physical characteristics, conditions, temperaments, opportunities, natures and capacities.

The woman marshal, whom the School sends for a girl, endeavors to get facts concerning her and her family, and the home is visited if possible before the time comes for the girl's discharge or parole. Home visiting at the time of the girl's reception greatly facilitates our understanding of the girl with the causes and occasion for her coming to our care.

After all this study for the purpose of knowing and understanding each girl, there comes the actual work with the girl, and here the officers with untiring patience and sympathy, must teach simply, clearly, strongly, continually by life, by words, by books, by work, by play, by every look and act, the principles that control right living, inculcating such habits of work and giving such training that each pupil will in some measure be prepared to become self-supporting and to maintain the standard of living which she will have acquired in the School.

The return to their counties each year of some clearly feeble-minded girls committed here, always brings to light the sad lack of provision for the protection of the State from the menace of those incapable of self protection. Education of officials and of the public has so far progressed that the return from the School of the feeble-minded of marked types, is met with some effort to seek for them custodial care, but the feeble-minded girl of woman's stature and child's brain, for lack of room at custodial institutions at present, is likely to be turned loose to increase the cost both to public and private charities of the State.

The School's records show that the delinquent girl of normal mind can make good. The delinquent girl of subnormal mind cannot respond to this training because of her inherent irresponsibility. For the School to retain these girls in order to give them custodial care for a limited number of years, is to be false to the purpose of the School and to our duty to those who might be benefited by the training, but who cannot be received because of lack of room. The care of this class should be the work of another institution, and the plan for the State to establish institutions suited to such custodial work, has the earnest approval of the officials of this School, who have been obliged to study the mentality of the girls committed here.

Methods.

Oversight.— In the work of the School the unit is at all times the individual. To place each girl where she will receive the largest

possible benefit from every standpoint is the first consideration. She is classified according to her character and conduct, and then according to her health, mental characteristics, temperament, disposition and inclination. To this end the study of the girl begins with the marshal who brings her and continues as long as the School has legal guardianship over her, and in many cases does not end here. We are still in close touch with many of our girls who have long been legally discharged.

In placing a new girl, she is released from quarantine to that cottage whose environment is best suited to her character and conduct. However, if after reasonable trial her progress does not prove satisfactory, if she develops characteristics which seem to require a different atmosphere for the building of the good and the destruction of the evil tendencies, she is tried in another cottage. Thus, there is needed constant study on the part of the superintendent and the officers, who come in contact with the girls, in order that each girl may always be in the place best suited to her steady development.

Three distinct divisions are recognized in our system of grading. Every pupil on arrival goes into the second grade and remains there unless unusual conduct promotes her into the first or demotes her into the third grade. Among the first grade girls there are three degrees, each of which is indicated by a badge of different colored ribbon. The red is the first one to be earned, followed by the white, lastly by the blue. As each ribbon represents at least six months' consecutive satisfactory record, the ribbons are most highly prized by the girls, not only by those who win them while in the Training School, but also by those who strive for them while on parole or after their final discharge. The ribbon girls are the honor girls of the School, and have special privileges. The third grade girls occupy a cottage by themselves, but the first grade girls live in the several cottages with those of the second grade. This plan is found most helpful in encouraging the second grade pupils and in keeping up the moral tone of the home. Each cottage takes a just pride in its number of high-grade girls, and the winning of a ribbon by a single girl is oftentimes the initiative necessary for the starting of other good records by cottage companions.

Our method of classification tends greatly to collect the backward and mentally deficient by themselves and give opportunity for special study of those irresponsibly deficient who can neither endure the methodical activities of work, study and play in the ordi-

nary cottage group, nor be self-maintaining and law abiding when tried on parole.

The colored girls are segregated only in home life, no distinction being made in any other department.

The study of our girls has made us realize that each girl has the right to be exactly what she is when she arrives here. Later, she develops another right — the right to choose the better things that are offered her. To help create a desire for the better things of life, the girl must first learn respect for authority — such a quality of respect as will include the faith and trust of a little child that the guiding hand of a wise parent will do what is best for it.

In the limited sense of correction, methods of discipline are varied, these principles, however, being always in mind; namely, that the individual and not the offense is to be treated, and that a human being fulfills his end only when he is a social being. To a thoughtless observer, the following out of the first principle appears to result in injustice. The discipline is not the same for every offense within the same class or definition. The reason for this is that a deeper, more searching justice has gone to the cause of the offense and has sought to apply a suitable remedy for each case. If the same punishment were fixed to each offense, discipline would become shallow, superficial and machine-like. Acting upon the second principle, the idea that is foremost is to bring a girl into right relations as a social being. Largely, the girls are egoists, so the whole work of the School has to tend always along this line. Special forms of correction, then, are never inflicted with a view of causing humiliation or loss of self-respect. Restraint, methods that will bring about a realization that unsocial conduct will not be tolerated, a sense of shame that one's *conduct* has disgraced one's self, as well as that it has caused annoyance to one's fellows, are necessary and salutary, but, that degradation which comes from an external source, imposed by authority, is not wise or desirable in discipline.

Cottage Work.— Each cottage is a complete family home. The cottage work is done entirely by the girls, under the direction of matrons. Each girl must in turn do each kind of work; once skilled in her assigned duty, she progresses to other household cares. Some of the most practical and valuable training which the girls receive, comes through the cottage work, which the matrons arrange to have accomplished outside of school and recreation hours.

The matrons have general supervision of the entire cottage, in-

cluding the discipline, under the direction of the superintendent. It is also necessary for them to train new officers in the cottages and to assist them in adjusting themselves to their new work. The assistant matron has charge of the kitchen, laundry and dining room.

The work of the cottage matron is as important as that of any officer in the School, for by prolonged and close association, she comes to know the girls thoroughly, and her influence is strong. The girls in their cottage life are more natural than in the schools; there is necessarily less restraint and they are not so much on their good behavior. Consequently the matron sees them in all their moods, good, bad and indifferent, and has opportunity to help them in situations similar to those which will be met after leaving the School.

The general care of the grounds, walks, lawns, flowers, shrubbery, is given by the girls under the direction of officers, thus providing plenty of outdoor exercise, and promoting pride in home surroundings. Under the direction of the farmer and garden matron, the girls have real joy in raising the supply of summer vegetables and part of the winter stores, in caring for the fruit trees, vines and berry bushes, and in assisting with the care of the pigs and chickens. The farm and poultry work proves to be a most reliable aid in transforming the nervous, weak, irritable, backward or stunted girls into wholesome, joyous creatures, in giving interest and pleasure in living to the average girl, and in caring for the mentally deficient who constantly are coming to the School.

Schools.—School sessions are short and as a rule the teachers have little to prepare and no home work to correct. However, each teacher is expected to do relief work, supplying as chaperons and supervisors whenever there is lack of cottage officers.

The general spirit of the schools, in all departments, has been excellent. The experience of conducting classes without books which were destroyed because of the trachoma epidemic has been of great interest and value both to pupils and teachers and well worth the extra preparation on the part of the teachers. The completion of our new school house will give ample space for book or grade schools in a building adapted to concentrated mental effort.

The average age of the pupil is younger than it was when the School was first organized. This, while increasing our success in helping the girls form good habits, requires that a longer period be given to grade school work.

The schools — grade, sewing, cooking and laundry, all have a morning session giving fifteen hours a week of training, while the afternoon sessions give but eight hours. The morning and afternoon classes are frequently rearranged so that each may have the benefit of the longer hours. We endeavor to keep each girl, as far as possible, in book school for half a day, and in the industrial work for the other half. Visitors often ask how we compel attendance on the various schools. We are glad to say that is not one of our problems, as our girls almost without exception look upon the school privilege as something to be striven for and jealously guarded when obtained. Our problem is not how shall we compel these girls to attend school, but where can we find room for all, what is of the greatest value to give them, and how can we crowd the most into the short time the girls are here. The importance of the influence of the schools upon our girls as a factor in adjusting them to the atmosphere of the School and imparting to them an idea of what the School wants to do for them, is felt so keenly that every effort is made to get a girl into school as soon as possible after the quarantine period is over. Sacrifices of time and strength are frequently made by both officers and girls, in order to keep the pupils in school. Often a whole cottage rises earlier, that the work of the home may be finished before school time, thereby giving more girls the advantages of the education they so much need.

School Library.—The epidemic of trachoma, through which the School has passed during this year, has made necessary the destruction of all books likely to be infected; most of the School's circulating library suffered the same fate as all grade school books. The school books have been replaced, while up to this time it has not been possible to renew the library books or increase the library as is needed for recreation and broadening the education of the girls. We find that a habit of reading is readily acquired by the girls who soon become keenly appreciative of good books and choice selections. Biography, travel, history and good poetry are most valued by the girls and such books are of frequent service in holding interest thus avoiding the necessity for more obvious measures. We would welcome donations for library material.

Cooking School.—The cooking school training covers a period of about four months. Besides the teaching at cooking school, girls receive much training and practice in the cottage where as girls' cook they become accustomed to managing for a large family, and

as officers' cook to the preparation and serving of small amounts. The girls take to the work readily and most of them learn to cook acceptably. During the summer, the cooking classes prepare large quantities of pickles, preserves and canned fruits. Careful instruction is given in the proper cooking, and dainty, tempting arrangement of such food supplies as may be found in the home of the ordinary laboring man. To this course is added, as far as time and material will allow, training in the preparation of such delicacies as girls employed in more well-to-do families might be expected to make. The capacity of the room devoted to the cooking school at the present time is limited to fifteen. This does not allow sufficient time for these younger girls to obtain an amount of training which will enable them to assume the responsibility of preparing the daily food for a family. As our population increases it will be necessary to increase the capacity of that room or to secure another room and an additional teacher if all our girls are to have the benefit of this training.

Laundry School.—The laundry school course covers from four to six months, and is carefully graded. Because of the increased number of little girls committed here during the past few years, it has been found necessary to increase somewhat the length of time, both because of the age of the girls and because of the fact that here, as in other classes, the morning girls receive instruction fifteen hours a week and the afternoon girls only eight hours. The work is all done by hand, the laundry being equipped with no appliances other than those found in the ordinary home. The two rooms now occupied by the laundry are inconvenient in arrangement, and inadequate in equipment with almost no opportunity for proper ventilation. We desire to install some machinery to do the heavy part of the work, as we feel it is too great a tax on the strength of girls so young as these to do all the heavy washing. In addition to protecting the girls' physical strength in the growing period, we think the time spent doing the heavy plain work could be spent to much better advantage in other ways, and the girls would also be gaining some knowledge of how to run machinery. Some appropriations have been granted to help carry out the plans for laundry betterment, but it now seems as if the condition of the industrial building and certain rules of the Building Improvement Commission will prevent the reorganization of the laundry school methods in the present building. Many plans for these changes

were considered by the State Architect and the School during the year, none of which proved practical.

Sewing School. 1st Grade.—To complete this course, requires for the average girl about fifteen hours per week for four months. Here, the children are taught to use the needle in taking the different kinds of stitches and the application of these stitches to their various uses, also how to use a sewing machine. This class makes most of the house linen and plain underclothing used at the School, such as sheets, pillow slips, towels, curtains, stand covers, handkerchiefs, etc. This class also does some embroidery and crocheting. The need for rapid replacement of clothing, both household and personal, for the girls during and following the recent trachoma epidemic, has proved how very useful zeal and interest in supplying that need has been in training and developing good sewers, in this first grade sewing class which has superseded the model class formerly used for beginners.

Practical or Plain Sewing School.—This course is the next given to the pupils. In this class the girls cut out and made most of the clothing worn by the girls in the School. The amount of work to be accomplished by this class, both in keeping up a proper amount of clothing for a rapidly shifting class of growing girls, and in mastering the art of cutting and fitting cotton garments, would easily employ three large classes. Moreover, there is always a great demand throughout the State for competent seamstresses; therefore we desire to give girls good training in practical sewing. Most girls enjoy making clothes. The work of the sewing classes holds the interest of the girls as well as that of any other class instruction given here.

Dressmaking Class.—The dressmaking class also has about a four months' term. Here is made for each girl the woollen suit given her when she goes out for parole or on graduation; also the cadet gray coats worn by the girls on the grounds. About one-third of the girls become expert enough to make their own dresses and about one in sixteen can become a good dressmaker.

There is great need for an industrial teacher who would be able to give instruction in manual training and in crafts which are not taught here now. It is not desirable in the length of time we expect to retain a girl in the School to add many things to the course of study which we plan for all, but we believe that to some few we should offer opportunities to learn kinds of work for which they have a special talent. Such work would be of great educational

as well as of practical value. To offer a troublesome girl a line of work that will absorb her misdirected energies is often a means of starting her on the road to self-control. For girls who have had educational advantages superior to most of the others, and for girls who have been brought back from parole for further moral training, such courses of instruction would be invaluable. If such girls are to receive the disciplinary benefit which they need, their interest must be held and their faith maintained that they can always continue to acquire at the School something of practical value. Our plans for the new school house include a manual training room, and, therefore, we hope in another year to provide this much desired training.

Vocal Music.—Following the custom of past years, classes in singing have been held four times a week, viz., on Tuesdays, Wednesdays, Thursdays and Fridays.

During the month of August it is the annual custom to try every voice and assign its possessor to her proper class—high sopranos to the Tuesday class, medium voices to the Wednesday class, and low voices to the Thursday class. The Friday rehearsal is attended by all the classes, and the parts learned at the separate class rehearsals are tried together, generally with success, the classes singing their several parts firmly and in correct time; then follows the instruction in expression and balance in singing together. This balance is sometimes disturbed by one class singing too loudly. The teacher of music states that after more than thirty years' experience as a church organist and choirmaster, in both mixed and exclusively male choirs, also as a teacher of vocal music in the public schools, he has never trained and taught a more responsive chorus than that composed of the girls of this School. It may be mentioned here that the disturbing of the balance, noted above, is occasioned by the eager desire on the part of the class to respond, and this causes the efforts of the teacher to be directed mainly toward voice repression and control, which brings the course into harmony with the general spirit of the School and gives it a strong disciplinary as well as educational value.

During the past year, music classes were recruited only from those girls not suffering from trachoma, consequently the Friday rehearsal class grew from a little group of old girls to the whole School of new girls, a few being added to the number monthly. In spite of the unequal length of the training and experience of the girls in singing school, the cantata of Ruth was very well sung

with orchestral accompaniment at a special celebration of the release of the School from quarantine.

The music sung is, as always, from the works of the best composers; for example, Beethoven, Mozart, Mendelssohn, Rossini and Gounod. The method used in teaching may be called, without violence to the truth or infringement on anybody's copyright, "The Natural Method." For thirteen years the singers had only words to guide them. They are taught, however, by appropriate exercises, to "think tones," and are able to measure intervals by ear and with voice accurately — also to modulate successfully. For several years past a book of songs with notes has been provided; binders for the words of chants, hymns, cantatas, etc., are also provided for each girl.

Religious Instruction.—Religious instruction is given once a week by outside teachers, supplied by whatever church may wish to send a representative. Expenses are paid by the State. At present there is a Roman Catholic, a Jewish, an Episcopal, and an Evangelical class. The Sunday services are conducted by various clergymen from Hudson in turn, or by someone from outside, whom the superintendent may be able to secure. The form of service has been carefully prepared and is approved by all the churches.

Physical Culture.—The purposes of the gymnasium are principally two — the ability to control self and the ability to relax self, both of which require pupils to enter whole-heartedly and unanimously into whatever is undertaken — gymnasium work, dancing or games — thus acquiring health, grace and fun.

With these aims in view, the general lesson plan includes: (1) military work, which promotes quick comprehension of a command and prompt obedience to it, and shows the worth of individual attention and alertness in making a perfect unit; (2) hand apparatus, including dumb bells, Indian clubs, etc., which is made to supply mental as well as physical needs, as the pupils are encouraged to think out what a command expresses and to depend less on imitation of the teacher; (3) circle games, relay races, or fancy steps, with music as a part of every lesson, as these tend to prevent a feeling of self-consciousness and to promote a feeling of good-fellowship.

Special corrective work is given to the pupils who need it. A new system of measurements has been installed, which has awakened much interest among girls. By this means the girl is shown in what way she differs from the perfect standard and also some-

thing of the results of such deviation and is encouraged to attempt to correct the same. This method enables the pupil to work much more intelligently with the teacher.

During previous summers, the time has been devoted entirely to games, such as tennis, tetherball, basketball, volleyball, baseball and croquet. For most of these games, there is need of the playground, which has not been restored to usable condition, since it was broken up by placing through it a large conduit.

Garden Work.—While a farmer has been allowed for the purpose of developing all of the institution's land, and another laborer employed to help with the necessary heavy work, gardening is continued by the girls, under the supervision of a garden matron, who has two classes each day. During the past year there have been about eight acres under cultivation. All the vegetables used during the summer, as well as a large portion of the winter supply were produced. Hotbeds are used for starting the plants for both vegetable and flower gardens. In the care of the trees, lawns, rose borders, flowering shrubs, the cottage flower beds, the small fruits, and in the spraying and all cultivation, the girls have either done all of the work or have given assistance.

Preparatory work to continuing the work of a more formal outlay of the grounds with carefully placed groups and rows of trees, ornamental shrubs, hedges, etc., as planned by the landscape art department of Cornell University, several nurseries have been planted, clothes and door-yards enclosed during this year. This interesting work has been done by the girls, under the supervision and instruction of workers from Cornell.

At present, neither the capacity of the School, nor the facilities for teaching and supervising the girls, meet the needs of the State. We always have a long waiting list and have been obliged to request magistrates not to commit, as overcrowding means less work actually done, less number of girls graduated, giving the School a custodial rather than an educational nature. Facilities for more rapid movement of population will tend to prevent a too ready acceptance of every provision for physical needs with no personal effort or responsibility on the part of the individual girl for such provision.

While we desire to take whatever material is sent to us and to adjust it as quickly as possible for normal living away from the School, yet we fully realize that time must be allowed for seeds of knowledge to germinate, mature and be absorbed and transformed

into mental and moral fibre; hence, we assiduously plant and cultivate good seeds, useful seeds, conscious that each girl must do her own growing and that only in a long future can the harvest of spiritual results be gathered.

Before leaving the School, we expect that most girls will have attended classes in grade school, laundry, cooking, sewing, gymnasium, singing and religious instruction, besides doing her prescribed share of housework in her own cottage, attending Sunday chapel service and taking part in garden work and outdoor games. Although this amount of class work is our aim, nevertheless when a girl is physically able and in mental attitude ready to step into some good home, thus making room for another girl here, and wholly or in part ready to provide for herself, we never hesitate to send a girl out because she has not completed every class, as there is still good teaching given outside of institutions.

We have neither enough industrial teachers nor class rooms to carry through the program of class work that should be given to most girls. Girls who must go out first have to be arranged for ahead of others who have a longer time to stay. Girls knowing that they need to have training and awaiting their turn in classes sometimes become discouraged and lose patience at delayed parole, or acquire an over willingness to be maintained by the State. If buildings and a larger force of officers and teachers could be provided rapidly enough to meet the demand, we could prepare girls to live outside in a much shorter time than is now required for their equipment.

The per capita cost of maintenance would not be increased as the number of girls benefited would be larger. It appears to us that the per capita cost for maintenance for this School should be reckoned in at least three different ways, in order that the money expenditure per girl may be rightly understood. Per capita might be ascertained first by dividing the total maintenance expenditures for the year by the average daily population at the School for the year; (2) by dividing the total expenditures by the number of individual girls at the School during the year; (3) by dividing the total expenditures by the average number of girls on parole during the year, plus the average number of girls at the School during the year.

Paroles.—The value of a parole as an important part of the system of training is a firmly established fact. It is while on parole in a carefully selected and approved home that a girl is brought into right relations with the outside world. In the institution for

many months, long enough to forget wrong standards, and under pressure to eradicate old ideas and habits and to establish new ones, life has a different aspect from what it has under the ordinary conditions in which our girls will live. But the problems of the outside world await them and it is of the utmost importance that when these come anew to the girls, it will be when they are under wise guidance. Therefore, with the parole system, we seek to place them where with kindly watchfulness and care they will use to advantage the knowledge and training they have acquired in the School and grow into normal, sensible young women.

Each girl receives the wages she earns and is free to use them as she chooses. She is advised by her voucher as to her expenditures and is encouraged to start a bank account. In this way we have tried to supplement the School training, in which we have as yet no system for paying the girls for the work they do and charging them for what they receive, and for lack of which we recognize that our girls have no adequate idea of the expenses of living and of the value of time, money or property.

One of the requirements for parole is that girls report to the Superintendent monthly by letter countersigned by their voucher. These letters are often very interesting, especially the first home-sick ones, wherein girls pour out more to someone who they think will understand than we have been able to draw out here and sometimes reveal the very thing long sought. Besides saving for a bank account to provide clothing and necessities, many girls save to pay their way back to the School for a visit or vacation. Nearby girls come in fairly frequently. The respectful, joyous greeting and courtesy shown to the "visiting" or paroled girls by their former schoolmates is an interesting contrast to the welcome given "returned" paroled girls.

It seems a great pity that the crowded condition of the School makes it necessary to refuse for lack of room any girl who wishes to visit, and is willing to spend her wages to come, and whom we would return were she misbehaving instead of doing well. We think we owe to our paroled girls as much effort in providing for "home" visits as we do in providing for those who have not yet come under our guardianship.

The number of applications on file for girls for service makes a careful choice of homes possible. While the requests are in number far in excess of the girls to be sent out visits are made by our agents to most of the homes offered in order that we may make

use of the best opportunities that appear for our girls. From these homes, those are chosen in which the mistress shows the keenest interest and highest appreciation of the training which is begun in the School and which she is expected to continue. In addition to the more obvious qualifications of good judgment, sympathy, interest, patience, tact, these women must be resourceful. Realizing the necessity of wholesome amusement and society for all young girls, they must be able to provide it, since these girls cannot find their pleasures in ways most usual to domestics.

Given a home which meets all these requirements, equal care is taken to place in it the girl best adapted to its peculiar atmosphere. If, in a few weeks, in spite of all our care, the girl does not fit into this particular home, an immediate change is made. On the other hand, if conditions prove satisfactory to all concerned, the visits of our parole agents become occasional, rather than frequent and regular. Mechanical, expected, regular, routine visits are most undesirable. To the girl the visit would lose its spontaneous, unexpected pleasure and come to be the ordinary customary thing. There would be no necessity for the congenial, sympathetic relation between girl and mistress which is so desirable and so apparent. It is not unusual for a girl to become so attached to a motherly woman that years after she has left the place and is perhaps settled in a home of her own, she still turns to this friend for advice and friendly greeting, even more readily than she turns to our School.

Another reason for not making visits too frequent is that we should be making conditions unusual for the mistress as well as for the girl and would be defeating the very end we are trying to reach of having the girl live under normal external conditions. Not that the ordinary relations between mistress and maid are ideal, but our requirements tend toward a happy solution of the domestic problem as well as provide for our girl the motherly care that is needed. A regular outside visitor to a proved and well conducted home would be thought of as a necessary nuisance to be tolerated, perhaps, but certainly not welcomed. Moreover, it is not desirable to draw public notice to the fact that a girl is on parole from an institution, and that she is visited on Friday of each week. Under such conditions, it would be impossible for a girl to make the necessary adjustment to independent life and feel no jolt when the jurisdiction of the institution over her must finally cease.

This is the third year we have sent out from the School girls

who were committed under the law placing girls under the guardianship of the School until they are 21 years of age. With this our parole work has increased, and the School must have an additional force. The School gratefully acknowledges the assistance given by various persons and agencies in the past and it has no doubt that if a general scheme for parole work for all institutions in the State is instituted by the Probation Commission co-operation in spirit and methods will be attained, but this cannot replace the work done by the School's own parole agents. To carry this out, the School's parole agents must be free to visit over the whole State as they do now and to advise with local officers as they now advise with voluntary visitors. In no other way can we extend the special training that we feel is needed for an individual. To place her entirely under the care of strangers would be practically to cut her off from the School's influence while she is on parole. If it became necessary to return her for further training the School authorities might not under such a system be so intimately informed as at present concerning circumstances in her life and there would be an undesirable break in the training.

It is not always expedient that a girl be placed in a home other than her own. Occasionally she can receive there better advantages than in any other home. Even if this is not the case, some parents are so insistent upon the girl's return to them that she is certain to do so at the earliest moment she is free. This being the case, it is often the wiser course, to allow her to return home while there is still an opportunity to require certain conditions. Here, again, a tactful parole agent has a great opportunity, for the difficulties of adjustment are likely to be greatest here. During the time spent in the School with new interests and ideals acquired, a glamour is frequently thrown over the old home life. This is often dispelled on the girl's return to her home by existing poverty and sordidness.

Each year, among our Christmas remembrances is a letter sent to several hundred — now about seven hundred — “old girls,” who if they write but seldom, at least before the holidays send some word or address, as it were putting out feelers for this message and greeting. The following extracts may show how Dr. Bruce's Christmas letter is sought.

A. B., discharged in 1911.

“Just a line or two, as I have started to write more than once. I suppose you have all thought I was dead; but that

is not so. I am well and very busy now days; I am keeping house and have a baby boy, he is fine and awful good. Of course he makes a lot of work. I suppose all the girls have gone that I knew. I often think of you all and I am in hopes to hear that you have all ribbon girls now. I have seen two of the girls from there. I was down to New York two months ago and looking out of the train window I saw a few girls around the Main Building and two officers coming out but I went by too quick to know who they were. I would love to come back again; you bet I would try and get all that there was to have. If the girls would take a better advantage of what was taught to them, I would give the world if I could be a girl back again with Miss ———. Is she there yet as an officer? * * * I hope you will remember me to all the officers and girls that I knew, give my love to all, as I like to be remembered as one of the old girls. Tell Miss ——— I will write in a few days to her. I have done fine for I very seldom write a letter. I have done up 96 cans of fruit; isn't that splendid? Hoping to hear from you soon."

B. C., discharged in 1908.

"Just a few lines to let you know I am thinking of you. * * * I must tell you that my husband was very much pleased with his visit to the School, as he said when I used to be talking about the School he didn't think it was as nice a place as it is. He said he didn't see any reasons why the girls should not be good, that there was girls out in the world whose people had lots of money and still they don't get the advantages that your girls get.

"After we left the School he asked me what made me who didn't have anything run away from such a home as I had there, and the only answer I could give was just devilment; to this day, I can't see any other reason. It seemed as though I used to be possessed.

"We went to the State fair to see the Hudson exhibition, and it was beautiful. I also met M ———.

"We have picked out a player piano so we would have some amusement for the winter but I am not going to have it sent up until my birthday, because it is a birthday present from my husband.

"I had a letter from ——— (one of the old girls). The

baby was all right when I got home ; I guess it was my husband that was lonesome instead of the baby. * * * I will close for this time, hoping you will write when you have some spare time. Yours sincerely."

C. D., discharged in 1909.

"I was very happy to hear from you and to know that I am not forgotten in the old home. I am getting along nicely ; my two children are bright boys, the youngest is just beginning to walk, it keeps me pretty busy looking after them. * * * Their father got them a little tree and I trimmed it for their Christmas. It was very pretty and the children seemed to be so happy over it, especially the oldest.

"I got a 'White' sewing machine for Christmas and it will help me a good deal with my sewing.

"I don't suppose I would know the old place. * * * I would like to see it again, for within its walls I learned many a valuable lesson which has helped me greatly since I left the School and have a home of my own to look after. The course I took in sewing has been most helpful to me, for I can make all my own clothes and everything for my babies. I made my oldest boy a coat about a month ago and everyone thought it lovely. One lady asked me where I learned to sew so well. I feel that if I didn't have the training, I would not know how. The lessons I learned at laundry school has helped me a great deal, too. My babies' dresses are ironed as well as if I were doing them right in your laundry. * * * I could tell you of many more things that have been a benefit to me but it would take too much time ; suffice to say that every thing that is taught will be of great use to the girls when they leave the School to make a way in the world for themselves. I am sorry now that I was not better, and did not study harder while I had the opportunity. * * * Wishing you every success, I am one of your old girls."

D. E., discharged in 1909. Girl of German parentage ; a motherless girl committed to the School on complaint of her father.

"At last Christmas is here again, and I see that you still think of me which makes me feel very much pleased. I was very glad to hear from you and surprised also. I am very glad that the School is being improved so much for it does

mean a lot to a girl who has no home. I owe all I ever learned and also what I am today to you and the officers. I often wonder what I would have been doing if it was not for the School as I sit and think as I get older. It certainly is a good place and all the girls should try hard and show what it can do for them. * * * I presume you are all busy, as I remember when I was there, and hope all enjoy yourself as much as I do.

"Dear Doctor, I have two of the loveliest girls that ever walked, they are grand; I think so. I only wish you could see them, they are very dear to me, and I know you would think so if you saw them. * * * My husband is very good to me and does all he can for me. I did get a very good husband, not one day of work has he missed and the people he works for adore him; he has no bad habits, only smokes, which of course is natural. * * * I hope and wish you all a very happy New Year. Hoping to hear from you soon, From one of your old girls."

E. F., discharged about two years ago; an orphan of foreign parentage; has been in homes and institutions, and placed out before being committed to the School.

"Received your letter and it made me very happy to hear from you. I was so proud of that beautiful letter I showed it to everyone who came to see me. I thought it was a beautiful letter and so kind of you and Miss to think of me; and some other things made me very happy too, and one is the little gift from the girls; I thank them all for sending it to me. * * * The housekeeper is playing the Victrola upstairs and the other girl is the cook; her name is She told me to tell you she could not help loving you for the way you give your whole life to the girls, and I told her that your girls who turn out good girls and women ought to love you, for I certainly do and I appreciate and thank you ever so much for what you have done for me. I am waiting for the time to come to see you. * * * I always go to bed at eight o'clock at School, and I can't get out of that way, I get so sleepy I can't keep my eyes open.

"Dr. Bruce, if I am discharged I want to belong to you just the same, and I always want you to keep me in your memories. Your friend."

F. G., discharged in 1909.

"You can't imagine how happy I was when I got your letter.
* * * I wish I was a girl once more with you. I often think of the girls there. I said to my father this morning, 'I know that the girls are having a nice time now.' Will try to come and see you again some day. I long for my home, the home that made me what I am to-day. I have found out that we don't live for ourselves alone, there are those who need our help.

"To-night my sister and I are trimming a Christmas tree for our aged father, he may not be with us very long, and while I am helping with the tree, I am thinking of the home. I must close with love to all the matrons and wishing them a Merry Christmas, I remain, Your loving pupil."

G. H., discharged in 1908. Remembering the pleasure of receiving mail and the loneliness of those girls who have no one outside the grounds from whom they can hear, has been a friend out in the world to girl's known to her only by given names forwarded by the Superintendent.

"I sent a little box to ———; it was not as much as I would have liked to have sent, but just now I have not been able to get very far away to buy Christmas gifts, so I thought perhaps ——— would not object to a little home made gift and a couple of handkerchiefs I could get her in the village.

"I wish you would let her write her monthly letter to me if she still has no one else to write to. It would give her encouragement to have a friend outside and I know it would bring lots of cheer to me. I am sending a Christmas card to her in your letter. I have received four Christmas gifts so far. * * * I told my husband last night I wished I could be back with the girls for Christmas, perhaps in a couple of years I may be able to pay you a visit, I hope so.

"Tell the girls for me to make this coming year a record year and to never get discouraged but remember the old saying, 'If at first you don't succeed, try, try again.'

"Wishing you all a very Merry Christmas and a Happy New Year and all success in every undertaking, I remain, Your Loving Pupil."

The following quotations are from recent letters of girls now on parole:

H. I.—“ It seems an age since I left the School, I would love to see it once again. * * * Will you send me the names of some good books which I can obtain from the library? I can see myself sitting out on the lawn reading or sewing with all the girls about Miss ———, she telling us nice, cheerful stories. * * * I am working at ——— and make \$5 to \$6 a week. * * * I am making a new dress for myself, * * * and have made all of my own clothes since I have been home. * * * Respectfully.”

I. J.— She has been while in the School a faithful and conscientious girl; not brilliant, but good. She begins her letter by telling all about her daily work.

“ Dr. Bruce, there is a girl here that I wish was at the School, she needs your care very badly, she is only fifteen; the way they talk about this girl is dreadful. Is Miss ——— or Miss ——— home? If one of them would come down here maybe they could help her out. The people have talked and talked to her and she won't listen to them. The police are after her now because she is running around. Her mother don't live here, she is with her grandmother. I have never met her, but I know where she lives, and I have seen her, and I have not been saying a thing but just taking it all in, and I spoke to Mrs. ——— about writing to you and tell you what I know and she said that it would be all right. I thought you would like to know about such things. I was just her age when I came to you all and you took me in and fed and clothed me and I am thankful that there was room for me there, and I got such training in time. I know the girl's name; it is ———.”

J. K., who has been on parole two years. She is a girl of German parentage. She mentions hearing from some officers and inquires for others.

“ I am getting along fine; how I wish I could come back on my birthday. * * * Do you think by my birthday I would deserve my blue ribbon? I am trying each day to make myself better than I was when I started. People tell me they see a great improvement; I can't remember when I had a 'stupid'

spell, its so long ago; but I get my crying spell very often, I get so lonely.

"I haven't gone with a friend since I wrote and told you about those persons giving me up on account of my being in the School. I went there for my own good, but people look down at it different, so I don't say anything more about it to people. I know myself what it has done for me, and I am living a more pure life than when I went into the School so it has done me good and I'm thankful that I was there. I never thought that way in the School, but when you work in a laundry and see what kind of girls they are, I can always say to myself I was brought up in a school and I'm glad I got the training those girls have not. Some day I hope and pray that I'll be able to help girls as I was helped.

"Sometimes it is very hard for me when I hear people say, 'Oh, she was sent away!' They don't think, 'Well the sending away made her good;' but are always digging up the past instead of letting it be buried. I always think to myself, 'Oh they don't know anything, they're so ignorant.' * * * My mother is coming down to-day; I think if she will stay here, I will work here if it is all right, but not until you say its all right. * * * Hoping to have my ribbon for my birthday, I remain, Your true student."

K. L., who has been on parole some time in one of the large cities of the State. After mentioning her daily work, pleasures and usual occupations, says:

"Miss ——— was at my house last week; I am very sorry I did not see her, but I was at work at the time. I would love to see one of the officers from the School, I would like them to see how well I am doing, to have them see how much I have gained by the School. One can tell by looking at a girl if she is doing right or not. I know I am trying to do what is *right only*, and we can't do more than *try*. Yours truly."

L. M., a girl still in the School, writing to one of the officers with special permission.

"I received a post card from my sister ——— and she tells me that she is out of the ——— Home and with papa and mama again. I would like to write her a special letter this

month, may I? I know she would be glad to have a letter all her own from me. I want to save my little sisters from what nobody but the State saved me. She is just the age I was when I first found out about the dreadful ways of the wicked. I am the oldest girl in the family and want those that follow me in age to be better than I was. It took a long time for me to wake up, but I'm thoroughly awake now and I want her never to go to sleep to the awful things so she won't have to be woke up.

"Miss ———, you can't imagine how thankful I am that I escaped when I did the very worst thing in the world to me now. May I write to my sister please? She is only thirteen years old, but she might be brought to think that that kind of a life was a common one. It was, in the bunch of girls I got into, but it never shall seem that way to her if I have an ounce of power to prevent it. I wish I could be home to talk to her and a good many other girls that are going to wreck their lives in that way.

"I really don't think there is a finer or greater woman working for the cause than ———. She is all the things that are good and kind and best in one. My greatest ambition hereafter will be for the good of young girls like I was once. Your obedient servant to study, I am.

"P. S. I shall work my uttermost to become what God intended me to be in the first place."

Health.— The general condition of health permits a more satisfactory report than we were able to make a year ago. The very extensive epidemic of trachoma which began in June, 1912, was so far stamped out by February, 1913, that the reception of new girls was deemed safe. The precautionary measures of frequent eye inspection, constant disinfection and fumigation have been continued throughout the year. These extra expenses will necessarily continue in some degree until there is no possibility of communicating trachoma at the School. Among the 145 girls admitted since the lifting of the quarantine, four entered afflicted with chronic or well defined cases of trachoma. These cases are now nearly cured. It is interesting to note that girls who had been under more or less constant treatment for trachoma escaped the sore throats and colds which usually develop in the early winter. By May, all persons except those who were accommodated in Stuyvesant, the old prison building, were entirely out of quarantine, and the usual School activities

had been resumed. The long interruption of classes, the necessary destruction of equipment, the assimilation of a large number of new girls by a hardly larger body of older girls who had received not scholastic but rather quarantine or hospital training, has made the year difficult for both girls and officers. Cases of diphtheria, mumps and scarlet fever have occurred at the School during the year. None of these diseases were further communicated, due largely to the vigilance of the officers and the knowledge in essentials of quarantine which those girls who passed through the trachoma epidemic have acquired.

The work of erecting two new cottages and a new school house adjacent to Stuyvesant which began in June, forced the abandonment of Stuyvesant and its hospital wing. We have since been obliged to use Roosevelt cottage as a temporary hospital, transferring thither all the hospital and communicable cases on the grounds. As all this number could not find sleeping room at the cottage hospital, the care of some of these cases has been a very serious problem; the tubercular girls have been returned nightly to the deck of the old Stuyvesant hospital, and trachoma cases use the cell rooms of the old prison building. Although these unavoidable conditions have made discipline, supervision and care of the hospital girls difficult, the officers and most of the girls have endured the inconveniences, extra work, deprivations and disagreeable surroundings with hopeful cheerfulness. Almost daily some problem arises that shows the urgent need both of a new hospital and a contagious hospital; for these two buildings the Legislature of 1913 granted appropriations but the process of obtaining plans for the same is slow. The School has neither appropriations for a much needed tubercular pavilion nor suitable land whereon to locate such a building.

The position of Resident Physician has been vacant most of the year. The large amount of medical work has been carried on by a physician from Hudson who had long been consultant at the School and by the ophthalmologist who has continued in charge of all eye, ear, nose and throat work. These physicians have been assisted during parts of the year by a medical interne and temporary resident physician, and by Dr. Wilson, manager; also by the nurses regularly employed at the School. Maternity cases and special surgical work have been provided for at small cost in the Hudson City Hospital.

The taking of throat cultures, as a routine part of the physical examination of all admitted, whether new girls or those returned

from parole, is a further safeguard for the School, as no girl is released from quarantine until the State Board of Health, in whose laboratory the cultures are examined, reports that they are free from diphtheria bacilli.

We have continued this year the services of an ophthalmologist, so that, soon after a girl is out of quarantine, her eyes, ears, nose and throat receive a special examination and any necessary treatment, operative or otherwise, is instituted. This helps greatly in giving a girl the right start and is one of the improvements we are most glad to report as being continued.

The dental work, interrupted by the trachoma epidemic, has been resumed, the new girls requiring a large amount of work, while those girls whose mouths had been put in order and who had been taught to care properly for themselves needed comparatively little attention upon re-examination.

A change in the State Charities Law made by the Legislature of 1911, which benefits the School, is that a pregnant girl, or one who is the mother of a nursing child in her care, may at any time after commitment be paroled by the Board of Managers until the child is two years old, when the mother must be returned to the School for further training. In previous reports we have explained that the presence of infants in an institution of this character is undesirable. Loving care and attention are their due, but girls of Training School age are not discriminating, and it has been difficult or well-nigh impossible to impress them with the true meaning of illegitimacy. To most of them the babies have been playthings, and, from that standpoint and from the fact that the mothers necessarily receive special privileges, child-bearing seems rather desirable than otherwise.

The feeble-minded girl is still a grave problem to which we give much particular attention. There are at this School girls who need permanent custodial care, and who have no one to care for them but the State. The State institutions for such cases are full. With the assistance of the Bureau of Analysis and Investigation of the State Board of Charities, we have continued this year the systematic and careful mental examination of girls. For this, the Binet-Simon test is used. From our records and these tests, we are able to differentiate the merely backward from the feeble-minded. This is not only of interest and benefit to the School as well as to all who are interested in the same problems elsewhere, but furnishes scientific reasons, which cannot be gainsaid, for returning feeble-minded girls who have been mistakenly committed to us. In this work, perhaps

more than in any other, even including discipline, we have felt the lack of a qualified resident woman physician. We therefore have devoted much time and energy to the search for such a physician.

Business.—The hindrances attendant upon the trachoma epidemic permeated even the Finance Department; nevertheless, in spite of changes in employees, illness of the Steward, and various other temporary vacancies, the high standard of accuracy set by the Superintendent and Steward have been well maintained. We appreciate the many evenings, half holidays and Sundays ungrudgingly given by faithful employees that have made possible this efficient work.

Improvements and changes in the use of all the land belonging to the School are in progress. The position of farmer is allowed at the School and the employment of the right man will further assist to develop the possibilities which the School's location affords for training of pupils.

General repair and improvement work, also relathing and replastering the old cottages has been continued during the School year by the mason with the aid of the School matrons.

During the winter, a School painter was secured; under his instruction, the girls have helped paint, enamel and otherwise refinish much of the old furniture, and have greatly improved the appearance of many parts of the School buildings. The entrances and offices at the Administration Building received the first coats of disinfecting and beautifying paint, and now with some slight refurnishing they present a more homelike appearance than ever before. Until all the old cottages are rewired and new floors provided, it will be impracticable to finish the painting needed for both disinfection and proper upkeep and to help create the desirable, homelike impression which every cottage ought to give.

Two new cottages were completed, furnished and opened, giving 52 additional rooms for girls; two cottages were repaired and replastered; much interior painting was done, renovation of the chapel and gymnasium being complete; a cold storage room for meats was constructed; 30.87 acres of land, and fencing and farm equipment were purchased; fly screens for all windows and doors of 14 buildings were installed; considerable equipment for offices, schools and power plant was provided; all school books, clothing and furnishing condemned on account of trachoma epidemic were replaced; ordinary repairs required in masonry, carpentry, plumbing and steam-fitting were made.

MISCELLANEOUS.

The Staff.—The dread of becoming institutionalized, keeps many thoroughly desirable women from entering or remaining in the School. Surely the School whose aim is to prepare its *pupils* for that normal social condition—true home life—with opportunity for individual development, should not require of its *officers* that they practically eliminate both friends and relatives from their scheme of existence. Even the most efficient, both by nature and by training, bound in the treadmill of work without play, lose that valuable asset, the viewpoint of the world. To accomplish with sure speed the best results, suitable recreation is as essential to teacher as to pupil. Amusement and recreation are rightfully provided for the girls, while dearth of housing for a larger force, lack of funds for its maintenance, and no place on the grounds where free time can be beneficially spent, defrauds the officers of their due.

Conservation of energy has been a theory little considered here in the handling of the people who are vital to the success of the best planned work. We have wasted often the best energy and we have had to let conditions continue that have made it impossible for us to command thoroughly good and satisfactory service at all times. This School needs women temperamentally fit, who will enter the life in the spirit of having really found a vocation. Purely as an economical matter, then, in order to preserve the health and energy of its trained workers, the surroundings should be cheerful and there should be time for rest and recreation.

We need women who are strong, intelligent, sympathetic, quiet, tactful, just, broadminded, charitable, open to suggestion, having judgment and a sense of responsibility toward the State and for the welfare of its wards, at least possessed of these qualities in a sufficient degree to give promise of further development under the opportunities of the work. We want women able to teach the various branches of housekeeping, who will realize that this is indeed a *training* school in every sense and that it is a privilege to help remedy the deficiencies which have hitherto cramped the lives of many of the girls.

The School possesses not a few such officers; therefore, we know that we are not setting up an impossible ideal. That, in spite of the difficulties and exactions, women of this character remain in the School, leads us to believe that a study of all the conditions under which they live and work and a combined effort for betterment on

the part of all concerned in controlling these conditions would result in securing a class of employees who would cheerfully repay this effort in highly efficient service.

Amusements.—All holidays are regularly observed in some fitting manner by the School; sometimes by general School festivities, sometimes by cottage or family entertainments; no girl likes to miss a holiday frolic; every occasion for celebration is taken; birthday parties are held as each cottage may elect, either monthly or on the actual natal days. Some cottages have clubs or societies where the membership is considered an honor; these clubs hold weekly meetings, when carefully prepared programs are presented; dramatics are a frequent form of recreation in some cottages. During the year, roller skating has been added to the usual games and athletic sports. Stereopticon travel talk entertainments were given frequently in the chapel during part of the year. The Columbias and Victrolas, acquired by gift during the year, now pass from cottage to cottage and furnish much enjoyment. Officers of the School have been generous in adding to the collection of records. This year every cottage has had some music as part of the gala day celebrations.

The most important general festival of the year took place in May when the girls celebrated their release from quarantine by singing the Cantata of Ruth. At that service they appreciated and enjoyed the address made to them by Governor Glynn.

So many of the girls either visit the School or express a desire to do so, because it is the only real home they have known or for the same reasons that actuate graduates of other schools in returning for a visit, that the officers have recognized that our efficiency would be increased and our influence prolonged if we had a small building or tents for establishing a summer camp where such girls could be welcomed as guests. It is hardly proper, in view of more pressing needs to ask the State to make such provision, but it has been suggested to us that, if the need were known, someone interested in the welfare of girls might make a gift for this purpose.

The Board respectfully urges the appropriation by this Legislature of sums sufficient to cover the following items:

**APPROPRIATIONS DESIRED AT THE 1914 SESSION OF
THE LEGISLATURE BY THE NEW YORK STATE
TRAINING SCHOOL FOR GIRLS, AT HUDSON, N. Y.**

SPECIAL BILLS.

I. FOR FIRE PROTECTION.

PRESENT CONDITIONS. (a) Each girl is locked in her room at night, with individual lock, except in the two cottages last constructed, in which electric annunciators have been installed.

(b) There is no fire alarm system, by which an alarm can be rung in each cottage, or which can surely be heard by the men employees on distant parts of the grounds.

(c) In front of each window leading to a fire escape, there is a radiator, over which the girls have to crawl to reach the fire escape.

(d) The institution has no hook and ladder equipment with wagon to carry same.

(e) Additional hose is considered necessary.

The items given below have been recommended for two years, by the State Fire Marshal, and included in our requests to the Legislature.

The cottages *are equipped* with standpipes, chemical fire extinguishers, fire escapes and telephones and there are ladders, fire hose and hydrants located about the grounds.

1. Remodelling fire exits \$1,980

This is for the purpose of cutting down all exits to fire escape platforms to floor levels; installing fire proof doors of regular size; and moving obstructing radiators out of the way in front of openings. Changes should be made in ten cottages.

2. Fire apparatus \$2,500

To provide hook and ladder equipment, hose reels, hose, etc. Such apparatus as we have has to be carried by hand.

3. Fire alarm system \$4,000

The only general alarm is a bell hanging in the tower of the Administration Building. There is no alarm which can be rung in each building, and the bell is not heard on distant parts of the grounds.

4. Electric annunciator system for cottages..... \$8,000

To do away with the necessity of locking each girl's door at night. The above four items have for two years been disallowed — by the Legislature, we believe.

Item 4 was requested and disallowed many times but a small appropriation was granted in 1912.

5. House for fire apparatus \$1,200

A suitable building, centrally located, for housing hook and ladder equipment, hose reel, etc. The institution has no place in which such apparatus can be kept.

6. Addition and repairs to water lines..... \$1,500

At the present time there is but one shut-off in the water main. In repairing a break or in making new connections, the water to the whole of the institution except the Power House, must be shut off. It is proposed to divide the system into sections, which can separately be shut off, thus lessening the danger for the whole institution.

II. FOR ENLARGEMENT AND PERMANENT IMPROVEMENT — EXPENDITURES WHICH ARE NOT A PROPER CHARGE AGAINST THE MAINTENANCE FUND.

I. A protective fence, entrance gate house and guard's room. \$20,000

A protective fence which will compel respect for State property and be suited to the character of the institution, should be erected. This institution must have a fence, because it is situated close to an undesirable section of Hudson, and is bounded by railroad tracks and much travelled public roads. It is the policy of the institution to give the girls as much freedom as is compatible with their safety. While the present fence suggests a penal institution, it is no deterrent to those who wish to get on or off the grounds. It is of wood and much of it is very dilapidated, portions falling over with every high wind. For the sides of the property bounded by the public roads, there should be a suitable iron fence (about 200 rods). For the line boundaries, there should be an unclimbable wire fence (about 400 rods). An entrance gate house containing at least a

room for the guard and a waiting room is a necessity at the main entrance to the property. The old gate house stands within the grounds and has been condemned as a fire trap. This item was requested last year. The institution does not know by what Department or Committee elimination was made.

2. Renewal and extension of electric light feeder system
and ground lights \$8,000

The insulation is off much of present wiring and further patching is impossible, and the poles are rotten. Representatives from State Architect's office and other inspectors advise that renewal is now necessary and installation underground most desirable. Extensions to the new buildings for which we have appropriations must also be made.

3. Telephone and school bell wires and rewiring chapel... \$1,500

All wiring for the old buildings is carried overhead by poles and is all in poor condition. Telephone and school bell wires go to each cottage, and these should be installed underground at the same time that the light wires are so installed. The chapel should be rewired to get a proper distribution of the load, and because the present wiring is not according to the requirements of underwriters.

4. Repairs and reinstallation of existing steam and water
mains \$8,000

On a portion of the steam lines, the pipe covering has disintegrated, so that there is great loss of heat. For the sake of economy of fuel, these and hot water lines should be repaired and reinstalled. Repairs are necessary to cold water lines in this portion of the grounds. The reinstallation of these lines and the installation of the electric system underground should be done at one time, to save labor and to save the appearance of the grounds. It takes several years to restore the lawns because the soil is a heavy clay which cannot easily be replaced.

5. Retaining wall for bank at sewage disposal plant.... \$1,400

The surface soil of the clay bank, at the foot of which the contact beds of the sewage disposal plant are located, is sliding down

and in another season the clay will be pouring into the beds, which will ruin them. The destruction of the beds will put out of commission the whole sewage disposal system and the sewage will have to empty into a bay which is more or less stagnant and thus make a nuisance which would threaten the health of the School and of the neighborhood.

6. Reconstruction of old store house into dwelling..... \$8,000

This building will be vacated after the erection of the new store house, for which an appropriation was granted last year. It is the first building at the top of the hill on the entrance drive and this location makes it suitable for a residence building only. It is well constructed and its architecture conforms to that of the other cottages. It can be made to provide sleeping accommodations for a number of officers, supplying what is now an urgent necessity.

7. Root cellar (Such sum as may be necessary)

The institution has no root cellar and provision for this cannot be made from the appropriation for storehouse and refrigerating plant. The storage capacity we have had has been insufficient and there has been waste because the rooms cannot be kept at a proper temperature. With the reconstruction of the old storehouse, there will be no place to store vegetables and roots.

8. Equipment for new schoolhouse..... \$6,260

Last year \$10,000 were asked by the managers for this purpose and but \$5,000 were included in the bill. To bring the cost of construction of the new schoolhouse within the amount of the appropriation for that purpose, it was necessary to deduct the cost of the installation of blackboards, which was \$1,260. This sum is, therefore, added to the reduction of \$5,000 on our request of last year. In the four rooms now used for scholastic purposes, we have little equipment except desks, chairs, a few cabinets, book shelves, maps, globes, etc. In the new schoolhouse, we need modern equipment and additional furnishings for the school rooms, the library and the manual training room, such as desks, chairs, reference, work and reading tables, globes, maps, book shelves, clocks, electric bells, filing cabinets, books and pictures, looms, etc. The blackboards should be installed when the building is being erected, this being the more economical and the more satisfactory plan.

9. Additional appropriation for new floors and electric lights, cupboards and shelves in cottages..... \$5,000

Last year, for the new floors and electric lights, the sum of \$10,500 was asked for, the estimate being made by the State Architect's Department. The sum of \$6,000 was allowed, which will be insufficient. In the sum for extraordinary repairs and equipment, which was disallowed, we had included an amount for shelves and cupboards which are badly needed in girls' rooms and in recreation rooms in old cottages. A sum for this is now included in this request. Such shelves and cupboards are included in the construction of the new cottages.

The original floors in the first four old cottages are of a coarse grained wood and not only have splintered badly, but are unsafe in places. They cannot be repaired to make them safe or sanitary. All should be removed, or covered with a thin flooring of close grained wood. Except in the newest cottages, electric lights have not been provided in the girls' rooms, and it is impossible for the girls to give themselves proper personal attention in dark rooms. During all the winter season, girls living in the old cottages must dress and undress and bathe, practically in the dark. In case of illness, or discipline, light in the room is a grave necessity.

10. Painting interiors of cottages..... \$3,000

Extensive repairs to walls in old cottages, some being wholly replastered, have made this expense greater than would be required for ordinary maintenance repairs. The new cottages 8, 9, 11 and 12 are still unpainted. The institution has no equipment in the way of ladders, extension horses for platforms, etc., with which to do the work. Also, for the complete sterilization of the buildings, as necessary after the trachoma epidemic, it is highly advisable to paint, varnish, or enamel all wood work, walls, ceilings and furniture.

11. Underground heating and water mains to new buildings \$8,000

To carry steam and hot and cold water to the new hospital, the contagious hospital, and the storehouse and refrigerating plant, for which we have appropriations, and to other new buildings in this vicinity for which we ask appropriations.

12. Additional appropriation for Contagious Hospital..... \$7,000

We are advised by the State Architect's Department that a building to accommodate ten patients, if constructed according to plans now considered best for such a building, will cost \$15,000. For a contagious hospital, there was allowed last year \$8,000, although we requested \$10,000. The additional sum of \$7,000 is now requested, that a proper hospital may be built without great delay. The necessity for this was explained last year in the following words: "The experience of the past summer (1912) has again firmly convinced us of the great necessity for a building where contagious diseases may be properly isolated. Our appalling trachoma epidemic, with all its attendant expenses, could probably have been entirely avoided had we been able to place the first case in an isolation building with trained attendants."

13. Recreation ground and ice skating pond..... \$2,500

For grading, filling, draining, making proper playground surface, replacing apparatus, providing new apparatus, and storage place for same. The recreation ground was torn up when a large trunk conduit was put through that part of the grounds. Since then there have not been sufficient funds available to restore the grounds so that they could be used; therefore, the girls have been deprived of opportunities to play outdoor games which help to develop team work, friendly cottage rivalry and good spirit, and for which we have equipment, as for basketball, tennis, croquet, etc. .

For damming stream at the foot of the hill by the power house; making a small duck pond and providing for ice skating within the grounds.

14, 15, and 16. Land. New York State is far behind other states and the Canadian provinces in the amount of land allowed its penal and correctional institutions. Were it not for two or three superior *private* correctional institutions which redeem the State's reputation, it might readily be thought that New York State's policy in correctional education was pitifully unenlightened.

14. 2½ acres, more or less, corner of Powers Avenue
and Third street, and repairs to houses on same.... \$12,000

This is an irregular piece of land forming a boundary of the School's property and lying between it and the public road. There are five old dwelling houses upon it and the tenants are usually undesirable as neighbors to the School. If purchased, the State could

have here suitable dwellings for some of the men employees and their families. This would afford a much needed protection for the orchards and the grounds, policing the School from depredation from that quarter; also, as it is the plan to have some buildings on the North Plateau without wire guards on the windows, it is desirable to have this quarter very well guarded. Residence upon the grounds would make the men employees more readily available in an emergency and would, without doubt, as experience is showing, help the institution to obtain and retain a better class of employees. Requested last year but not included in bill.

15. As many acres on the south side of the State land and lying between the present boundary and the railroad of the Cement Company as may be necessary for the proper protection of the School..... \$10,000

This land now offers an opportunity for the erection of buildings which might menace the welfare and safety of the School. If owned by the School, with the present railroad as a boundary and with the contour of the land, the present School buildings would be guarded from the too close encroachment of undesirable neighbors.

Upon this piece of land is a high sunny plot, which would be a suitable location for a tuberculosis hospital. Requested last year, but not included in bill.

16. 150 acres, more or less, from farm land adjoining School property \$75,000

This is needed for buildings and for farm and garden lands. Much of this land is already well fruited and has farm buildings which will be temporarily useful. This land adjoins the School property in the only direction in which the School, because of the neighboring railroads, can extend its holdings. To accomplish its work satisfactorily, the School should have one, probably two or three, groups of girls widely separated from the rest as needing special treatment and observation or isolation from the others. Outdoor work is essential for such cases, as is also such isolation in groups, that each group may be treated independently of the others in the way of discipline and training.

There is constant pressure from all over the State for the reception of a larger number of girls at the School. We must meet this demand by increasing the capacity. Requested last year but not included in bill.

17. Demolishing old barn, sheds, etc. \$300

These are old wooden structures, too small for our purposes and located upon sites needed for such buildings as the new hospital, new laundry and contagious hospital. Where they stand, they interfere with the proper development of complete plans for the institution.

18. Laundry school building \$10,000

In the present Industrial Building two rooms are used for the laundry school, in which only hand work is done. It was planned to make this one large room which would still be used for hand work only. The epidemic of trachoma showed the need of some steam laundry equipment, that clothing might be properly sterilized, and an appropriation was granted for this last year. To house this, it was proposed to use another room, now used as a sewing room, in the Industrial Building. Examination of this building by inspectors from the State Architect's Department showed that the construction of the building will not permit with safety the installation of laundry machinery, therefore, they advised the erection of a new fire-proof building properly constructed for a laundry school. The condition of the Industrial Building is such that the vibrations of the machinery would wreck the building.

19. Additional appropriation for machinery for laundry school \$1,300

In last year's requests, the item for laundry machinery was \$4,000. This was reduced to \$2,700. We are again advised by representatives of the State Architect's Department, that the original estimate of \$4,000 will be required to purchase and install the needed machinery, which would include metal washers and sterilizers with flannel washing attachments, wringer, flat iron worker, soap tank, electric irons, etc. Equipment for hand work will also be needed in the new laundry.

20. Workshop for carpenter, engineer and plumber. \$3,000

The present workshop is a part of the old storehouse to which item six refers, and which should be remodelled into a dwelling. Also it is not in a suitable location for a workshop. The workshop should have separate rooms for the carpenter and the engineer and the plumber, with proper equipment in the way of cupboards, shelves,

tables, racks for tools and supplies. Efficiency and economy of time are an impossibility for the carpenter and the engineer in the one small room in which these men have had to keep their supplies and tools and do their work.

21. Staff house \$25,000

For assistant superintendents, physician, steward, managers and official guests. Suitable quarters are not provided for the above named officers nor are there rooms for the accommodation of managers or officials or those guests who visit the School from other states and other lands to study its methods. The Board believes that efficient administration requires quarters which will make the positions attractive, give proper dignity and duly meet the requirements of general health, all of which will contribute to continuous occupancy of positions.

Rooms required: Reception; dining-room; 4 suites — sitting-room, bedroom and bath; 4 bedrooms and 2 baths; kitchen, with laundry tubs; toilet; girls' dining-room; linen-room; housekeeper's room, etc.

22. Furnishings for staff house \$5,000

This item is self-explanatory.

23. Forcing houses \$2,500

Farm and garden work at this institution are called by all agricultural experts a "hard proposition" on account of the heavy clay soil. Yet, the institution for some years has raised a plentiful supply of summer vegetables and a good portion of the winter supply. Inspectors from the Department of Agriculture recommend forcing houses in order to give our vegetables an earlier start. Also, gardening and greenhouse work being suitable industries for women, we should have suitable facilities for giving the girls really proper training.

24. Poultry houses \$2,000

We have no adequate provision for poultry raising, an industry which we have successfully begun, and which we should like to develop, first for its economical value to the School and secondly, because it is an industry suitable for girls and women.

25. Piggery and fencing \$3,000

The pig pens must be moved and sanitary pens provided. There is now no place for butchering, for storing feed, trying out lard, etc. Some new yards and A-shaped pens have been provided, but the funds were insufficient to complete the necessary changes. This work has all been discussed with the representatives of the Department of Agriculture as well as with the inspectors from other Departments.

26. Underground heating and water mains, sewers, wiring and electricity to farm group \$7,500

It is proposed to place the needed group of farm buildings at the end of the land purchased a year ago. This item, is, therefore, for the purpose of extending all these systems to the farm buildings.

27. Road to farm buildings \$500

It is necessary to have some kind of a road to the piggery and poultry houses; therefore, it is proposed to build an inexpensive road, probably of cinders, for immediate use.

28. Coachman's house, carriage barn and stables..... \$6,000

There is no house for the coachman at the institution and it is important for him to live upon the School grounds as he has to meet trains at any hour of day or night. As stated under item 17, the present barn and stable is an old wooden structure, which is too small and further stands where it will interfere with the best location of buildings of importance in the general work with the girls, such as the laundry school and the hospitals.

29. Insect screens for unscreened buildings..... \$2,000

The screening of the buildings, as far as it has been accomplished, has had a noticeable effect in the institution. Buildings unscreened and those under process of construction should have screens next summer.

30. Employees' house \$20,000

The first reason for asking for this building is that there are not enough rooms now to accommodate the women employees. The

essential reason for employing such a number of officers is that our true capacity for inmates depends very largely upon our efficiency. That is, this institution is not a custodial asylum, but an educational institution, which means change of pupils as rapidly as we can prepare them to go out as self-supporting citizens.

At the present time, to provide sleeping quarters, we are obliged to use for other officers, the rooms of the marshal and the parole agents when they are absent on institution business, an arrangement which makes it necessary for some officers to change their sleeping places almost every night. From time to time, we have had officers sleeping in girls' rooms, but this reduces our capacity for inmates.

A further reason for the erection of such a building is that plans long considered of vital importance by the Board of Managers would be carried out,—namely, it would help to conserve the health of the officers. Recreation rooms will be included, for the Board has long recognized that in a work requiring constant educational and disciplinary effort, the officers must be enabled to secure mental rest and recuperation. The practical value of this to the institution would be that it would help to attract a good type of women and to assist in holding them until they could be trained and educated, so that the institution could have a staff of efficient and contented employees.

31. Furnishings for employees' house..... \$5,000

This item in connection with item 30 is self-explanatory.

32. Superintendent's house \$10,000

The Board believes that separate and suitable residence for the Superintendent is conducive to essential independence of thought and action, and is as important for proper administration in this kind of an institution as it is for superintendents in other branches of State service or in similar institutions in other States. Not only does it believe that it is as proper to provide separate residence here as in other places, as part of the Superintendent's maintenance, but that it is distinctly important for the effective and efficient administration of this School that the dignity and authority of the position be recognized in this way.

33. Furnishings for Superintendent's house..... \$2,500

This item in conjunction with item 32 is self-explanatory.

34. Cottage for paroled girls (43 persons)..... \$42,000

To be one of the cottages on the North Plateau, and to be used for trial upon the grounds, of girls paroled. This cottage will necessarily be larger than the other cottages, as it is the plan to transfer to this cottage all girls to whom parole is granted, thus making a transition between the carefully supervised life with the School and the more self-directed life outside. The parole agents living in this cottage will thus have an opportunity to become well acquainted with these girls before they leave the School grounds.

Rooms for 35 girls and 8 officers, and all other rooms included in other cottage plans.

35. Furnishings for parole girls' cottage..... \$3,000

This item in conjunction with item 34 is self-explanatory.

36. Two new cottages (31 persons)..... \$60,000

Rooms for 25 girls and 6 officers each. To be built on the North Plateau. Architecturally to be like cottages Nos. 11 and 12. Extra rooms for officers to provide for larger staff of teachers, etc. It is better to divide the number among the cottages, than to have them live in one building.

37. Furnishings for cottages \$4,000

This item in conjunction with item 36 is self-explanatory.

38. Underground heating and water mains and sewers to
North Plateau \$18,000

In conjunction with items 30, 32, 34 and 36.

39. Extension of electric system and ground lights..... \$12,000

In connection with new buildings and parts of grounds where renewal and extension could not be made earlier.

40. New Industrial Building and demolishing old..... \$65,000

The present Industrial Building is condemned. At this date it has been abandoned and by order of the Fiscal Supervisor and the State Architect must not be used until temporary precautionary measures can be taken to shore up the defective walls. The State

Architect's Department advises that a new Industrial Building of safe construction and suitable as to architecture and in plan for the industrial work which can be taught here should be erected. Money with which to remove the present structure, should, of course, be appropriated.

41. Equipment and furnishings for new Industrial Building. \$2,000

This should include proper equipment for a domestic science department; much additional equipment in the way of sewing machines, tables, cabinets and show cases for finished work, and cupboards and supplies for sewing classes; some equipment for other vocational work which can be taught girls.

42. New Disciplinary Building and demolishing old. \$15,000

The old Guard House has always been a failure. An attempt has been made to make it sound proof, but proper ventilation of the rooms cannot be secured. A building is necessary for solitary confinement of a certain few girls who will wilfully create a disturbance in a cottage with the hope of gaining followers, but such a building should be not only sound proof, but should answer every requirement of hygiene. We are advised by representatives of the State Architect's Department that the construction of this old building is such that we cannot secure in it both requirements. Also, with the growth of the institution, the location of the present building is undesirable.

43. Fence for new land requested. \$10,000

If the items 14 and 15 are allowed, fencing for this new land will be necessary. The sum given is a rough estimate.

44. Tuberculosis Hospital \$15,000

While this was asked for last year and was recognized as badly needed, when it was found that no new land would be acquired, it was not urged, the present property not affording a suitable site for such a building. The greater need of a modern and proper place for the care of tubercular patients in the School is constantly being demonstrated. A few of the girls committed each year are found to be tubercular, and their care is a serious problem, for they have to be placed in the hospital with the other girls, where

they necessarily must remain for a long time, thus reducing the hospital's capacity for other cases. A building constructed and equipped to administer constantly the most approved methods of treatment for tuberculosis should certainly be provided.

45. Furnishings and equipment for tuberculosis hospital.. \$1,000

This item in conjunction with item 44 is self-explanatory.

46. Demolishing old wooden hospital..... \$300

In time this old frame structure will have to be removed and a small sum for the labor will be required.

47. A farmer's house \$4,000

It is necessary in order that the farm work be done properly that the farmer or a laborer live on the School grounds, and this institution now has no dwelling for a farmer. The necessity for this must be evident, if more land is purchased, and all such industries as poultry raising, gardening, fruit raising, etc. are extended.

48. Farm barn and stables, tool house and sheds..... \$8,000

A new building for farm wagons and tools, hay, grain, horses and cows, should be built on the new land purchased last year. As stated in items 17 and 28, the old wooden structures are too small and their location interferes with our properly locating other buildings important in the general life of the school.

49. Employees' cottages (4)..... \$16,000

Not only will the provision for housing upon the grounds make it possible to secure a better class of employees, but needed protection will be afforded for the grounds to prevent trespassing and annoyance from loiterers. With the extension of the property and the necessary cultivation of the land to its borders, there is greater danger of petty thieving from our gardens.

50. Underground heating and water mains, sewers and
electricity to group for backward and subnormal... \$27,500

Heat, water, sewer and light to groups of buildings, which would be erected on land requested in item 16.

51. Group of 9 cottages for backward and subnormal girls \$45,000

For backward and subnormal girls, and girls requiring observation and special methods of training, or discipline which cannot be given in a large group. Style of buildings — frame, bungalow; each to provide for 5 girls and 1 officer, one cottage to accommodate 5 officers and contain school room.

52. Furnishings and equipment for 9 cottages..... \$5,000

This item in conjunction with item 51 is self-explanatory.

53. Administration Building reconstruction..... \$5,000

To provide more office space, a Managers' office room, dining room, a room for visitors to the girls and such other changes as are necessary to make it best adapted to business and administrative work.

54. Grading, walks and roads in connection with new buildings \$20,000

This item is really self-explanatory. There are no roads or walks to the parts of the grounds where new buildings are to be located.

55. 7 porches — for old cottages..... \$7,000

The old cottages have no porches. The utility of porches in the home life of the girls has been demonstrated by our having porches on the new cottages. It is proposed to make the porches herewith requested of two stories, the upper story to have a wire guard, making a place suitable for a sleeping porch. Such a guarded out-of-door place on each cottage will have a disciplinary value in caring for nervous and irritable girls.

56. For fruit, nut, shade trees and shrubs, and labor for planting and transplanting..... \$1,000

The institution needs trees for shelter and isolation from the city and nearby factories, also for absorption of soot and dust from the railroads and the cement plants. Dust, smoke, noises and indecent workmen are all a constant annoyance to the School and a heavy growth of trees would afford some relief. Fruit and shade trees

and ornamental shrubs and small fruits are all needed. An allowance for labor would permit the transplanting of trees of some size from the wooded portions of our own land.

57 Gymnasium \$38,000

To contain a main room, instructor's office, room for measuring, weighing, etc., dressing-room, shower baths, swimming pool.

The room now used for a gymnasium is the basement of the chapel. The floor of the chapel is supported by iron pillars in this basement, which necessarily interferes with many kinds of group exercises and games. Only comparatively small classes can be assembled, so that it cannot meet the requirements of a school with a population of 500. There are no baths and no properly equipped rooms for measuring pupils. As the gymnastic work is regarded as of greatest importance in therapeutic and disciplinary work, the need of better equipment for the work increases with the increase in population.

58. Improvements to Lowell cottage \$2,500

This will include necessary replastering because of original poor work, floor strip in bedrooms to prevent furniture from breaking plaster, a storage room for vegetables, etc., rear porch to provide suitable place for garbage and ash cans, pails, etc., alterations to clothes rooms and renewal of warped doors.

59. Repairing and making over dirt roads, 210 rods more or less \$1,500

The roads have not been redressed in many years; some of them are only dirt roads and cannot be kept in good shape.

60. New equipment \$5,000

There should be a fund from which modern time-saving and mistake-eliminating office machines and equipment could be purchased. Officers' rooms should be better furnished — rugs, for instance, have been provided for the rooms of three officers only. For efficiency and the retention of capable officers, cheerful, comfortably furnished rooms would at least have an equal value with increase in salary. Each cottage should have a sewing machine. All clothing and household linens, except knit underwear and shoes, are made and mended at this School. Modern household equipment, such as girls will have to use in homes outside, should be provided for its educational value

and to carry out the purpose of the School as a training school. The increase in the amount of teaming and of travel of officers due to increase in parole work and in number of commitments, are making necessary such facilities as an auto truck and an automobile.

61. Additional appropriation for school house..... \$35,000

The fund of \$75,000 under which the institution is erecting the new school house was insufficient to permit of the erection of an auditorium. To complete the building according to the plans drawn by the State Architect, it was estimated that \$35,000 would be required. This will again be submitted to the State Architect.

Items 1, 4, 6, 8, 9, 10, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 were all asked for last year and were not granted. It is not known by the institution authorities which Department or Committee caused these to be omitted.

A complete equipment of the School according to the approved plans, with land, buildings and all necessary outfit, would bring the capacity up to 500 and provide adequately for a complete change of the personnel of the pupils within the School once in two and one-half years. As there will always be also about 500 girls out on parole who are under the care of the superintendent and parole agents, this would insure the School's training 2,000 pupils every ten years; the majority of these girls becoming useful citizens. Some of the largest institutions which the State supports, namely custodial asylums and State hospitals, hardly average a capacity of 2,000 each, yet many custodial cases must remain thirty years under institution care, while the average stay of the insane in State hospitals is approximately twelve and one-half years.

Respectfully submitted,

MARY HINKLEY,

President.

NATHANIEL H. LEVI,

Vice-President.

MARCIA CHACE POWELL,

Secretary.

THOMAS WILSON,

Treasurer.

ANNIE WINSOR ALLEN,

EDITH A. REIFFERT,

SARAH B. PEABODY.

SUPERINTENDENT'S REPORT.

MOVEMENT OF POPULATION.

Received October 1, 1912, to October 1, 1913.

By commitment and return from conditional discharge.....	199
In school for visit over September 30th.....	1
Infants	6
Total	206

DETAIL.

By commitment	134
In School for visit over September 30th.....	1
By recall for attempting to run away.....	1
By recall for change of place.....	13
By recall for change of place and incompetence.....	1
By recall for disobedience	5
By recall for disobedience and change of place.....	1
By recall for further training.....	1
By recall for ill health.....	3
By recall for immorality	8
By recall for improper associations.....	3
By recall for incompetence.....	11
By recall for running away.....	5
By recall for running away and immorality.....	7
By recall for running away, immorality and stealing.....	1
By recall for violent temper and incompetence.....	2
By return from general hospital.....	2
By return of mother with child.....	1
Infants	6
Total	206

NOTE.—One girl was committed but paroled to her parents, there being at the time no vacancy for her admission to the School.

DISCHARGED.

Girls	155
Infants	8
Total	163

DETAIL.

Returned to the county.....	4
Discharged to general hospital.....	2
Discharged to hospital for tuberculosis.....	1
Discharged to Department of Charities.....	1
Discharged to Custodial Asylum, Randall's Island.....	1
Discharged to relatives.....	46
Discharged to service.....	100
Discharged to another institution (infants).....	4
Discharged with mother (infants).....	3
Discharged to relatives (infant).....	1
Total	163

NOTE.—Of the whole number, three were discharged at the expiration of the period for which they could be detained legally.

SUMMARY.

Population October 1, 1912.....	302
Received October 1, 1912, to October 1, 1913.....	206
Total	508
Discharged October 1, 1912, to October 1, 1913.....	163
Population October 1, 1913.....	345
Girls committed	343
Infants	2
Committed since June 1, 1904.....	1023

AGE OF ADMISSION.

11 years (improper commitment).....	1
12 years	18
13 years	27

14 years	44
15 years	44
Total	134

NATIVITY.

American	118
Georgia	2
New Jersey	1
New York	108
Pennsylvania	1
Vermont	1
Virginia	1
District of Columbia	1
Unknown	3
Foreign	16
Austria	3
France	1
Germany	2
Hungary	1
Italy	1
Norway	1
Roumania	2
Russia	5
Total	134

PARENTAGE.

American	58
Austrian	5
Canadian	1
Danish	1
French	1
German	7
Greek	1
Hungarian	2
Irish	2
Italian	1
Mixed	20
Norwegian	1

Polish	1
Roumanian	1
Russian	7
Unknown	25
<hr/>	
Total	134
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NUMBER OF GIRLS FROM EACH COUNTY.

Albany	2
Chemung	1
Chenango	1
Clinton	3
Columbia	7
Cortland	2
Delaware	1
Dutchess	4
Erie	4
Fulton	3
Greene	1
Herkimer	4
Kings	14
Madison	1
Monroe	1
Montgomery	3
New York	43
Onondaga	6
Orange	4
Orleans	1
Rensselaer	1
St. Lawrence	1
Saratoga	2
Schenectady	4
Schoharie	2
Schuyler	1
Suffolk	4
Tompkins	1
Ulster	1
Washington	2
Westchester	7

Wyoming	1
Yates	1
	<hr/>
Total	134
	<hr/> <hr/>

Biographical.**EDUCATION.**

Primary	41
Intermediate	81
Grammar	12
	<hr/>
Total	134
	<hr/> <hr/>

OCCUPATION.

Bookbinding	1
Cash girl	1
Factory girls	6
Housework	18
Mill hands	2
Sales girl	1
School girls	67
Shop girls	2
Nurse girls	4
None	32
	<hr/>
Total	134
	<hr/> <hr/>

RELIGION.

Catholic	27
Jewish	16
Protestant	91
	<hr/>
Total	134
	<hr/> <hr/>

PAROLE STATISTICS — 1913.

Number on parole October 1, 1912:

From year ending September 30, 1910.....

From year ending September 30, 1911.....	4
From year ending September 30, 1912.....	53
Total	59

Paroled from October 1, 1912, to October 1, 1913:

First time	100
Second time	33
Third time	5
Fourth time	1
Total	139

Detail for years ending September 30,	1910	1911	1912	1913
Honorably discharged	7	6
Dishonorably discharged	3	..
Discharged to county.....	..	1	..	..
Discharged by marriage.....	7	5
Returned for change of place and paroled	5	9
Returned for disobedience and reparaled	2	4
Returned for disobedience and change of place and reparaled.....	1
Returned for immorality and reparaled	2	..
Returned for improper associations and reparaled	2
Returned for incompetence and re- paraled	1	6
Returned for running away and re- paraled	1	1
Returned for violent temper and incom- petence and reparaled.....	1	..
Returned girls paroled under State Char- ities Law, chapter 57, section 206, and reparaled	1	..
Returned for immorality, not yet re- paraled	1	2
Returned for immorality and running away, not yet reparaled.....	5

Detail for years ending September 30,	1910	1911	1912	1913
Returned for immorality, stealing and running away, not yet reparaed....	..	..	1	1
Returned for improper associations, not yet reparaed .....	..	..	1	..
Returned for further training, not yet reparaed .....	..	..	..	1
Returned for incompetence, not yet reparaed .....	..	..	..	4
Returned for running away, not yet reparaed .....	..	..	..	3
Returned for violent temper and incompetence, not yet reparaed.....	..	..	..	1
Returned for sickness, not yet reparaed ..	..	..	..	3
Died on parole, tuberculosis.....	..	..	..	1
Not reporting	1	2	4	7
Maintaining regular correspondence....	1	..	16	77
Total	2	4	53	139

Changes of place without returns to school, for year ending September 30, 1913.....	12
On parole from year ending September 30, 1910, 1 being delinquent	2
On parole from year ending September 30, 1911, 2 being delinquent	2
On parole from year ending September 30, 1912, 4 being delinquent	20
On parole from year ending September 30, 1913, 7 being delinquent	84
Total number on parole October 1, 1913, 14 being delinquent	108

SCHOOLS.

BOOK SCHOOLS.

Number of teachers employed.....	6
Number of classes.....	8

First class:

Number of pupils enrolled.....	25
Days taught	157

Subjects taught Reading, book 1, book 2, with much supplementary reading; arithmetic, 45 combinations, simple process in fundamental operations, Roman letters to 25; language, definitions of words, words used in spelling lessons placed in sentences, oral and written reproduction of simple stories, quotations memorized and recited; penmanship, pen and pencil work in copying from book and blackboard; physiology, oral, care of the body in general; geography, oral lessons on globe, and special attention given to location, reasons for change of seasons and general descriptions; nature study, plant and animal life in correlation with other work, study of birds, plants in season, trees, changes in foliage, etc.; paper cutting and pasting once a week; drawing and color work one hour each week.

Second class:

Number of pupils enrolled.....	64
Days taught	158

Subjects taught: Reading, book 2, much supplementary reading; arithmetic, first half of book 1, rapid computation in fundamental operations, simple tables of time and measure, Roman numbers to 50, multiplication tables; language, oral and written, reproduction of stories, memorizing short poems, writing descriptions from memory, letter writing, definitions of words, correct use of words in sentences; spelling, book 2, oral and written, words defined and used in sentences; penmanship, in connection with spelling and language work; physiology, book 1, general care of the body continued; geography, book 1, description of different countries and the people who inhabit them; nature study, in connection with other lessons; history, book 1, study of the lives of early discoverers and explorers; paper cutting and pasting once a week; drawing one hour each week.

Third class:

Number of pupils enrolled.....	73
Days taught	193

Subjects taught: Reading, book 3, with much supplementary reading; arithmetic, review of previous work, drill in reading and writing numbers, short division, much practice with problems combining the four fundamental operations, making change, Roman numbers and telling time from clock dial; language, name and action words, writing sentences, reproduction of stories, both oral and written, stories from pictures, drill and punctuation and abbreviations; physiology, oral with many experiments; geography, through South America, special attention to New York State, and the location and forms of the States, plans and maps; spelling and dictation; drawing one hour each week.

Fourth class:

Number of pupils enrolled.....	71
Days taught	178

Subjects taught: Reading, book 4, with much supplementary reading; arithmetic, review of previous work, long division, elementary work in fractions, easy problems in common measurements, drill in making change and writing bills, introduction to decimals; language, much drill in the forms of the verbs commonly spoken incorrectly, writing sentences, reproduction of stories, work on the different kinds of modifiers, on pronouns, plurals and possessives; physiology, work of third grade reviewed and continued; geography, book used for reference in all subjects where places were mentioned, special attention to middle Atlantic States and to measuring distances on maps, lessons from pictures; spelling and dictation; drawing one hour each week.

Fifth class:

Number of pupils enrolled.....	61
Days taught	170

Subjects taught: Reading, book 5, with supplementary reading; arithmetic, drill in previous work with elementary work in common fractions, decimals, United States money and denominate numbers; language, drill in oral and written expression, punctuation, and paragraphing; physiology, oral; geography, much oral and some book work on local, State and United States; drawing one hour each week.

Sixth class:

Number of pupils enrolled.....	39
Days taught	157

Subjects taught: The work in this grade is a continuation of the fifth grade, with more book work in arithmetic, language and geography.

Seventh class:

Number of pupils enrolled.....	45
Days taught	168

Subjects taught: Reading, historical, geographical, biographical subjects in correlation with other studies; English analysis, composition, reproduction of stories; history, United States, general history, three months; physiology, oral; geography, completed elementary geography; arithmetic, fractions, common, decimal, denominate numbers; drawing one hour each week.

Eighth class:

Number of pupils enrolled.....	27
Days taught	154

Subjects taught: Advanced United States history, general history, biography; analysis and composition; physiology, oral; geography, review of other grades, commercial geography; arithmetic, review of denominate numbers, percentage, and its applications; drawing, one hour each week.

Promotions and demotions are made whenever demanded for the best interests of the pupil.

Length of vacation: Book schools, usually one month.

On account of the epidemic of trachoma, schools were not regularly in session until the middle of December.

COOKING SCHOOL.

Total number instructed.....	81
Number enrolled in classes.....	30
Average number instructed daily.....	24
Days taught	213½

SEWING SCHOOLS.

First Grade Sewing.

Total number instructed.....	95
Average number instructed daily.....	25
Days taught	128

Plain Sewing.

Total number instructed.....	109
Average number instructed daily.....	30
Days taught	247

Dressmaking.

Total number instructed.....	72
Average number instructed daily.....	28
Days taught	246

LAUNDRY SCHOOL.

Total number instructed.....	60
Average number instructed daily.....	21
Days taught	155

PHYSICAL CULTURE.

Number of classes each week.....	17
Average number instructed daily.....	88
Days taught	166

MUSIC.

For the purpose of giving instruction, the girls have been divided into three sections, all coming together for general work on Friday afternoons. This gives instruction in vocal music to each girl two periods of one hour each per week.

All girls attend these classes unless prevented by illness or occasionally deprived of the privilege because of misconduct.

GARDEN AND POULTRY RAISING.

There has been daily work under the supervision of the garden matron since early in April. Under the direction of other officers,

most of the girls have had training in the care of flowers, lawns, etc. The results of the garden work are shown by the following list of vegetables which were given out during the year ending September 30, 1913. Under the direction of the farmer and the garden matron, poultry raising has been developed, a certain number of girls attending to this work throughout the year.

FARM AND GARDEN PRODUCE FROM OCTOBER 1, 1912, TO OCTOBER 1, 1913:

1913:

Apples, bushels	117	Manure, double loads ...	35
Asparagus, pounds	26	Melons, musk, pounds ..	438
Beans, lima, pounds....	637	Onions, green, pounds ..	1,303
Beans, string, pounds....	1,742	Parsley, pounds	25
Beets, bushels	105	Parsnips, pounds	428
Beets, greens, pounds...	1,305	Peaches, bushels	16
Buckwheat, bushels	18	Pears, bushels	115
Cabbage, pounds	10,654	Peas, green, pounds	1,178
Carrots, bushels	26	Peppers, pounds	313
Cauliflower, pounds....	2,433	Plums, bushels	11
Celery, pounds.....	34	Pork, pounds	10,374
Cherries, quarts.....	146	Radishes, pounds	1,806
Chickens, pounds	1,102	Raspberries, quarts	33
Corn, pounds.....	744	Rhubarb, pounds	79
Crab apples, bushels....	8	Spinach, pounds	184
Cucumbers, pounds.....	2,894	Strawberries, quarts	36
Currants, quarts.....	67	Squash, summer, pounds..	3,835
Eggs, dozen	1,730	Squash, winter, pounds..	2,280
Endive, pounds	295	Swiss chard, pounds....	1,215
Hay, tons	3	Tomatoes, pounds	14,683
Lettuce, pounds	1,007	Turnips, pounds	12,251

ARTICLES MADE IN SEWING AND DRESSMAKING DEPARTMENTS
FROM OCTOBER 1, 1912, TO OCTOBER 1, 1913:

Aprons, butcher	6	Bed pads	59
Aprons, gingham band...	793	Bloomers, pairs	2
Aprons, gingham pinafore	31	Bonnets, infants'	5
Aprons, waitress	19	Cloths, bread	42
Aprons, white band	198	Coats, infants'	6
Bands, sanitary	138	Corset covers, brown ...	542

Corset covers, white	209	Pillow slips, brown	625
Covers, dresser	20	Pillow slips, white	138
Covers, mattress	26	Robes, case	4
Covers, sleeve board	18	Sheets, brown, 6/4	750
Covers, stand	127	Sheets, brown, 8/4	12
Drawers, brown, pairs	589	Sheets, ironing	42
Drawers, white, pairs	109	Sheets, white, 8/4	124
Drawers, white, infants' . .		Sheets, white, 9/4	43
pairs	6	Shirtwaists	107
Dresses, calico	212	Skirts, colored	442
Dresses, cottage	690	Skirts, infants'	13
Dresses, infants'	17	Skirts, white	105
Dresses, white	5	Skirts, wool dress	1
Handkerchiefs	834	Suits, wool	57
Napkins, checked	357	Towels, dish	254
Napkins, sanitary	1,003	Towels, hand	1,326
Nightgowns, brown	691	Towels, huck	410
Nightgowns, infants'	13	Towels, roller	6
Nightgowns, white	209	Towels, Turkish	44
Outfits, infants'	1	Waists, infants'	8

PHYSICIAN'S REPORT.

During the year ending September 30, 1913, the following cases were treated:

Abscess	7	Fracture, radius and ulna	1
Abscess, ischio-rectal	1	Furunculosis	7
Acne	6	Goitre	4
Acute indigestion	6	Gonorrhoea	20
Adenitis, cervical	3	Helminthiasis	1
Adenitis, simple	3	Herpes	1
Alopecia	1	Herpes zoster	1
Amenorrhoea	3	Hordeolum	3
Anaemia	4	Hyperidrosis	1
Anorexia	6	Hysteria	7
Appendicitis	1	Impetigo	1
Appendicitis with abscess.	1	Infection, arm	1
Blepharitis	3	Infection, finger	24
Bronchitis	5	Infection, foot	1
Burns	29	Infection, hand	3
Bursitis, prepatellar	7	Infection, head	1
Cardiac disease	2	Infection, knee	2
Catarrh	1	Influenza	13
Chorea	1	Ingrowing toe nail	4
Clavus	14	Insomnia	1
Cocaine poisoning	1	Intercostal neuralgia	1
Conjunctivitis	1	Iritis	1
Constipation	100	Keratitis, interstitial	3
Coryza	1	Laryngitis, spasmodic	1
Cyst, sebaceous	1	Lumbago	3
Dermatitis, venenata	22	Lymphagitis	1
Dermatitis (bichloride)	1	Malaria	1
Diarrhoea	8	Menorrhagia	1
Dislocation, finger	1	Metrorrhagia	2
Diphtheria	1	Migraine	21
Dysmenorrhoea	16	Nephritis, chronic	1
Eczema	8	Otitis media, acute	1
Enuresis, nocturnal	3	Otitis media, chronic	1
Epistaxis	5	Pediculosis	3
Extraction of foreign bodies	42	Periostitis	2
		Pharyngitis	14

Photophobia	2	Stomatitis	1
Pleurisy	1	Syphilis	16
Post-operative sinus	1	Tonsilitis	21
Pregnancies	9	Torticollis	2
Psychosis, hysterical	1	Trachoma	227
Psoriasis	1	Tuberculosis, glandular ..	3
Retroversion of uterus...	1	Tuberculosis, pulmonary ..	5
Rheumatism	2	Ulcer	1
Rosacea	1	Urticaria	1
Sciatica	1	Vaccination	22
Sprain, ankle	2	Vaginitis	2
Sprain, elbow	1	Verruca	4
Sprain, finger	1	Wounds, incised	18
Sprain, knee	1	Wounds, lacerated	4
Sprain, wrist	2	Wounds, punctured	2

Errors of refraction corrected	76
--------------------------------------	----

DENTISTRY.

Cleanings	3
Extractions	98
Fillings	224
Treatments	23

STEWARD'S REPORT.

This institution was originally the House of Refuge for Women, and was opened for that purpose April 15, 1887. By an act of the Legislature, in 1904, it was changed to the New York State Training School for Girls, date of opening being June 1, 1904.

Total acreage of grounds and buildings.....	117.43	A
Value of real estate	\$689,401	00
Value of personal property	49,489	06
<hr/>		
Total value of property	\$738,890	06
<hr/>		

Disbursements during the year for maintenance, and daily per capita cost:

Salaries of officers and employees.....	\$46,744	60	.4307
Expenses of managers and officers.....	751	17	.0069
Provisions	18,121	57	.1669
Household stores	4,194	79	.0386
Clothing	5,778	35	.0532
Fuel and light	14,023	61	.1292
Hospital and medical	3,588	35	.0330
Shop, farm and garden.....	3,457	26	.0318
Ordinary repairs	3,275	35	.0301
Transportation of inmates	4,872	65	.0449
Miscellaneous	6,126	57	.0564
<hr/>			
	\$110,934	27	1.0221
<hr/>			

Total weekly per capita cost.....	7.1748
-----------------------------------	--------

Total disbursements during the year for extraordinary improvements	\$51,649	98
Total expenditures	162,584	25
Estimated value of farm and garden products.....	2,762	57
Estimated value of articles made or manufactured during the year	2,845	07
Average number of inmates (including 2 infants)....	297	34
Number of girls and infants for whom 213-5/7 weeks' board was paid outside of the school (girls, 4; infants, 6)		

TREASURER'S REPORT.

HUDSON, N. Y., September 30, 1913.

The annual statement of the Treasurer of the New York State Training School for Girls, at Hudson, N. Y., for the year ending September 30, 1913:

Receipts.

Bank balance October 1, 1912, maintenance	\$273 82	
From general appropriations	113,700 00	
From special appropriations	51,649 98	
Miscellaneous	295 02	
	<hr/>	\$165,918 82

Disbursements.

From general fund	\$110,934 27	
From special fund	51,649 98	
Returned to State Treasurer	295 02	
	<hr/>	162,879 27
Bank balance, October 1, 1913		<hr/> <hr/> \$3,039 55

Classified Disbursements.

Salaries of officers and employees	\$46,744 60	
Expenses of managers and officers	751 17	
Provisions	18,121 57	
Household stores	4,194 79	
Clothing	5,778 35	
Fuel and light	14,023 61	
Hospital and medical	3,588 35	
Shop, farm and garden	3,457 26	
Ordinary repairs	3,275 35	
Transportation of inmates	4,872 65	
Miscellaneous	6,126 57	
Returned to State Treasurer	295 02	
	<hr/>	\$111,229 29

Chapter 811, Laws of 1911:	
Furnishings for cottages	\$60 93
Repairs and equipment	1 79
	<hr/>
	\$62 72
Chapter 822, Laws of 1911:	
Repairs and equipment	164 70
Chapter 530, Laws of 1912:	
Extraordinary repairs and equipment...	\$1,368 56
Two new cottages and outside connections	5,639 75
Cold storage for meats	1,000 00
Purchase of land and equipment	3,943 13
	<hr/>
	11,951 44
Chapter 547, Laws of 1912:	
Materials for schools and offices	\$645 42
Power house equipment	599 78
Two new cottages, furniture and equipment	7,819 01
	<hr/>
	9,064 21
Chapter 791, Laws of 1913:	
New school building	\$67 46
New cottages	30,083 97
Switch to coal pockets	255 48
	<hr/>
	30,406 91
	<hr/>
	<u>\$162,879 27</u>

The balance in the hands of the Comptroller October 1, 1913, is composed as follows:

Chapter 530, Laws of 1912:	
Furniture and furnishing two cottages	\$3,000 00
New conduits, etc.	6,000 00
Two new cottages and outside connections	48,860 25
Enlargement of laundry	2,500 00
Purchase of land and equipment	456 87
Fly screens for windows and doors	2,000 00
Outside lighting	1,200 00
Locking device	1,250 00
Guard house repairs	1,500 00
Administration building repairs	1,500 00

Extraordinary repairs and equipment.....	\$2,325 09
Chapter 547, Laws of 1912:	
Two new cottages, furniture and equipment.....	2,355 33
Power house equipment	234 51
Trunk main and feeder cables, new conduits.....	1,241 95
Material for schools and offices.....	339 39
Chapter 790, Laws of 1913:	
Floors and electric lights, cottages.....	6,500 00
Purchase of land	200 00
Hospital and equipment	66,500 00
Conduits and outside connections.....	12,000 00
Contagious hospital	8,000 00
Refrigerating plant and equipment.....	30,000 00
School building equipment	5,000 00
Laundry equipment	2,700 00
Boilers and equipment	8,000 00
Razing Stuyvesant hospital, etc.....	3,000 00
Feeder cables	4,000 00
Chapter 791, Laws of 1913:	
Maintenance	11,300 00
New cottages	2,296 96
School building	74,932 54
Switch to coal pockets, etc.....	57 69
Chapter 792, Laws of 1913:	
Maintenance	137,000 00
	<hr/>
	\$446,250 58
	<hr/>

Special appropriations showing no available balance:

Chapter 530, Laws of 1912:

New conduits, etc.

Fly screens.

Chapter 791, Laws of 1913:

New cottages.

Special appropriations showing an available balance less than cash balance:

Chapter 530, Laws of 1912:

Two new cottages and outside connections.....	\$186 00
Purchase of land and equipment.....	433 77
Locking device	385 00

Guard house repairs.....	\$1,370 47
Extraordinary repairs and equipment.....	10 93
Chapter 547, Laws of 1912:	
Two new cottages, furniture and equipment.....	1,532 17
Power house equipment	28 34
Trunk main and feeder cables, new conduits.....	652 77
Material for schools and offices.....	336 17
Chapter 790, Laws of 1913:	
Conduits and outside connections.....	4,971 00
Chapter 791, Laws of 1913:	
School building	377 04
Switch to coal pockets	43 93

Special appropriations showing an available balance same as cash balance.

Chapter 530, Laws of 1912:

Furniture and furnishing two cottages.....	\$3,000 00
Enlargement of laundry	2,500 00
Outside lighting	1,200 00
Administration building repairs	1,500 00

Chapter 790, Laws of 1913:

Floors and electric lights in cottages.....	6,500 00
Purchase of land	200 00
Hospital and equipment	66,500 00
Contagious hospital	8,000 00
Refrigerating plant and equipment.....	30,000 00
School house equipment.....	5,000 00
Laundry equipment	2,700 00
Boilers and equipment	8,000 00
Razing Stuyvesant hospital	3,000 00
Feeder cables	4,000 00

Respectfully submitted,

THOMAS WILSON,

Treasurer.

NEW YORK STATE TRAINING SCHOOL FOR GIRLS

FOR YEAR ENDING SEPTEMBER 30, 1913.

Population.

	Male.	Female.	Total.
Number of inmates present at beginning of fiscal year, including 4 infants.....	4	298	302
Number received during the year, including 6 infants	1	205	206
Number discharged during the year, including 8 infants	4	159	163
Number at end of fiscal year, including 2 infants	1	344	345
Daily average attendance (i. e., number of inmates actually present) during the year....	..	....	297.34
Average number of officers and employees during the year	18	64	82
..	==	==	==

Expenditures.

Current expenses:

1. Salaries and wages	\$46,744	60
2. Clothing	5,778	35
3. Subsistence	18,121	57
4. Ordinary repairs	4,579	70
5. Office, domestic and outdoor expenses.....	43,322	85

Total \$118,547 07

Extraordinary expenses:

1. New building, land, etc.	42,549	93
2. Permanent improvements to existing buildings....	1,487	25

Grand total \$162,584 25

HORTENSE V. BRUCE,
Superintendent.

STATE OF NEW YORK

THIRD ANNUAL REPORT

OF THE

Board of Claims

OF THE

STATE OF NEW YORK

TRANSMITTED TO THE LEGISLATURE FEBRUARY 25, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914

STATE OF NEW YORK

No. 32.

IN SENATE

FEBRUARY 25, 1914.

THIRD ANNUAL REPORT

OF THE

BOARD OF CLAIMS OF THE STATE OF NEW YORK

BOARD OF CLAIMS,

CLERK'S OFFICE, ALBANY, *February 24, 1914.*

HON. ROBERT F. WAGNER, *President of the Senate:*

DEAR SIR.—Herewith I have the honor to transmit to you for the Legislature of the State of New York the third annual report of the Board of Claims of the State of New York, as required by law.

Very respectfully yours,

JOHN V. SHERIDAN,

Clerk.

REPORT

To the Legislature of the State of New York:

The Board of Claims, in accordance with the requirements of section 271 of the Code of Civil Procedure, submits its third annual report.

JOHN JEROME ROONEY,
Chairman.

WILLIAM A. GARDNER,
Commissioner.

JAMES C. McDONALD,
Commissioner.

JOHN V. SHERIDAN,
Clerk.

E. LEE AUCHAMPAUGH,
Deputy Clerk.

WILLIAM M. MURRAY,
Stenographer.

The following sessions were held during the year 1913:

Albany, January 6th to 24th.

Albany, February 3d to 28th.

Utica, March 3d to 27th.

Syracuse, April 7th to 25th.

Rochester, May 5th to June 4th.

Buffalo, June 9th to June 20th.

Saratoga Springs, June 27th to June 30th.

Buffalo, September 15th to 26th.

Rochester, October 6th to 28th.

Syracuse, November 10th to 26th.

Utica, December 1st to 23d.

New York, December 18th to 22d.

The following are the claims in which final disposition has been made by the Board during 1913:

The following are the claims in which final disposition has been made by the Board during 1913:

No.	Name of Claimant	Amount claimed	Amount of award
10,803	Acker, Clara C.....	\$300 00	\$100 00
10,570	Adams, Antoinette M.....	10,000 00	Dismissed
597a	Ainsworth, Danforth E....	2,500 00	Dismissed
571a	Albers, Henry	542 01	175 00
10,723	Allen, Jane H.....	704 50	175 00
86a	All Saints, The Cathedral of.	5,000 00	5,000 00
423a	American District Steam Co.	4,000 00	2,900 00
7a	Anderegg, David	17,526 20	12,130 63
511a	Anderson, Andrew	77 08	Dismissed
519a	Anderson, Bruno	77 08	Dismissed
7,038	Anderson, Charles	250 00	Dismissed
8,365	Andres, Lewis	651 00	Dismissed
17a	Anken, Catherine, et al....	7,102 50	4,122 15
7,262	Anthony, Jacob N.....	635 00	Dismissed
492a	Armstrong, Emma O., et al..	11,868 80	7,954 20
7,402	Armstrong, Regina	154 00	Dismissed
8,184	Artlip, Emily J.....	1,345 00	Dismissed
7,407	Ashfield, Gertrude	481 95	Dismissed
617a	Atlantic Gulf & Pacific Co..	16,043 47	14,177 08
618a	Atlantic Gulf & Pacific Co..	27,447 05	24,488 45
734a	Atlantic Gulf & Pacific Co..	11,181 47	9,902 92
11a } 540a }	Auchter, William D... ..	3,076 20	1,150 00
929a	Austin, Berier	350 00	110 00
616a	Ayrault, Allen	4,000 00	2,000 00
10,601	Babbitt, Henry J.....	7,129 50	Dismissed
653a	Bailey, Mary L.....	1,604 50	625 60
925a	Baker, Albert M.....	286 00	175 00
832a	Baldwin, George	2,500 00	600 00
2,086	Bardwell, Morgan O., et al..	2,000 00	Dismissed
10,721	Barnhart, Nettie M., et al..	7,004 50	1,500 00
10,589 } 10,679 }	Barnsdale, Stephen H.....	5,250 00	662 00
1,152a	Bartlett, Chester	1,400 00	850 00

No.	Name of Claimant	Amount claimed	Amount of award
9,016	Bateman, John	\$40 00	Dismissed
7,895	Bateman, C. Willard	895 00	Dismissed
974a	Bauer, Catherine P.....	196 00	55 00
7,170	Baum, Chauncey	240 00	Dismissed
10,507	Beal, Charles S., et al.....	8,244 10	2,857 30
10,196 } 10,637 }	Becker, Christian, & ano....	1,100 00	800 00
8,850	Beckwith, Lawrence G.....	7,750 00	Dismissed
7,171	Belknap, John M.....	200 00	Dismissed
7,263	Bellinger, Simeon W.....	200 00	Dismissed
10,398	Bennett, William	115 45	85 00
10,379	Bierman, Joseph H.....	181 05	115 00
9,921	Bittner, John, & ano.....	4,000 00	500 00
7,006	Blaiser, Melvin	1,368 13	Dismissed
630a	Bloomer, Ottmar	1,600 00	50 00
10,390	Board of Trustees of School District No. 9, Frankfort.	250 00	117 50
7,076	Bonsted, Calvin D.....	1,920 00	Dismissed
10,841	Bojack, August	3,000 00	1,100 00
9,014	Bowman, Lydia	200 00	Dismissed
10,144	Braddock, James H., & ano..	600 00	348 00
467a	Brenon, Lucian	14,256 90	6,355 37
10,395	Brewer, Willard	54 50	34 50
1,154a	Britton, John	2,000 00	1,100 00
278a	Brower, Charles, & ano.....	420 00	Dismissed
8,540	Brown, Charles E., et al....	100 00	Dismissed
6,131	Brown, Charles M.....	240 00	Dismissed
569a	Brown, Edward, & ano.....	100 00	100 00
9,148	Brown, Frances A.....	3,422 55	800 00
10,626	Brown, John J., exec. etc...	900 00	275 00
935a	Brown, Mary J.....	650 00	300 00
126a	Buffalo, Lockport & Rochester Ry. Co.	500 00	125 00
783a	Buffalo, Lockport & Rochester Ry. Co.	250 00	100 00
1,908	Bulkley, Josiah	136 00	Dismissed
349a	Bullson, Alonzo	3,925 00	1,535 00

No.	Name of Claimant	Amount claimed	Amount of award
10,592 } 724a }	Burch, Mary E.....	\$6,050 00	\$1,451 65
10,593 } 725a }	Burch, Frederick, et al.....	11,200 00	6,229 95
991a	Burnham, Edwin K., & ano.	4,004 50	2,275 00
696a	Burr, James S.....	168 00	140 00
4,470	Burst, Moses	3,025 00	Dismissed
10,703	Butler, Mack E., & ano.....	700 00	Dismissed
7,194	Butt, Frank J.....	180 00	Dismissed
1,088a	Cadimus, Peter H., et al....	3,500 00	3,300 00
9,825	Caritey, Marie Therese, & ano.	4,353 00	700 00
10,429	Caritey, Marie Therese, & ano.	645 25	150 00
738a	Carney, John	28 25	28 25
516a	Carlson, Charles	77 08	Dismissed
596a	Carr, Lewis E.....	5,627 65	Dismissed
6,508	Carswell, Mary	200 00	Dismissed
7,049	Carter, Fred A., & ano.....	742 75	Dismissed
641a	Cartier, Edward, & ano.....	700 00	200 00
599a	Carvalho, David N.....	669 83	Dismissed
9,467	Cary, Thomas H.....	7,500 00	Dismissed
10,655	Casaretti, Nicholas, & ano..	5,000 00	1,150 00
595a	Casey, Fred B., et al.....	4,124 00	1,500 00
313a	Casey, James, et al.....	1,504 50	115 00
458a	Castle, Lewis S.....	2,629 60	900 00
10,694	Celehar, John	10,000 00	3,962 50
1,063a	Chamberlain, William	1,300 00	825 00
10,343	Chard, Alexander	78 75	42 50
10,594	Chase, Carrie E.....	700 00	100 00
693a	Chase, Addie F.....	5,000 00	2,324 00
7,372	Chesebro, Martin V. Beech..	640 00	Dismissed
8,530	Chiler, Carl	2,175 00	Dismissed
8,047	Christman, Levi	1,000 00	Dismissed
928a	Christy, Mary J.....	363 70	120 00
356a	Clark, Harriet E., & ano....	9,006 00	3,350 00
10,431	Clausz, George, & ano.....	16,067 19	8,898 02

No.	Name of Claimant	Amount claimed	Amount of award
730a	Clausz, Philip, Jr., & ano...	\$1,588 66	\$594 06
712a	Cleveland, Milo L., et al....	250 00	100 00
10,726	Cobb, Angeline M.....	10,504 50	6,200 00
644a	Coffey, Mary Ann.....	4,250 00	1,675 00
9,739	Coe, Charles D., & ano.....	386 50	250 00
9,817	Cole, John N.....	310 00	85 00
680a	Colman, John D. (sub-contractor under P. J. Carlin Cons. Co., No. 433a).....	2,504 64	Dismissed
145a	Cook, Albert L.....	22 03	17 50
1,129a	Cook, Weldon G., & ano....	7,500 00	5,000 00
146a	Cook, Emmett L.....	542 46	325 00
8,734	Cook, Nancy	250 00	Dismissed
628a	Cooper, Mary E.....	3,424 00	2,000 00
7,143	Collins, Ella, & ano.....	2,000 00	Dismissed
6,066	Colvin, Verplanck	377,241 31	Dismissed
10,775	Conant, Lewis H., et al....	1,204 50	450 00
3,315	Connolly, Patrick	2,000 00	Dismissed
6,254	Cornell, Walter H.....	260 00	Dismissed
1,059a } 1,060a }	Cornwell, Clayton	14,339 00	6,204 87
9,033	Corrigan, Kate	143 00	Dismissed
10,643	Creager, William	12,000 00	4,000 00
10,314	Crear, David	35,760 00	3,470 00
10,630	Crimmins Contracting Co., Thos	48,512 67	23,500 00
4,260	Croft, Volney	4,750 00	Dismissed
6,044	Croft, Volney	1,802 50	Dismissed
10,089	Crossman, George H.....	2,029 50	450 00
739a	Crotty, Maurice	50 00	50 00
1,824	Crowley, James	300 00	Dismissed
10,704	Crump, Shelley G.....	500 00	75 00
10,705	Crump, Shelley G., & ano...	820 00	507 20
967a	Crum, Myron J., & ano.....	1,500 00	1,250 00
7,239	Culer, Carl	3,540 00	Dismissed
10,654	Dailey, Ernest L., & ano....	1,227 00	1,127 00
9,499	Daley, Patrick B	31,565 54	5,550 00

No.	Name of Claimant	Amount claimed	Amount of award
292a	Danes, Samuel A.	\$1,940 00	\$1,335 00
997a	Dattalo, Caroline	3,504 50	2,250 00
2,941	Day, Olive, adm., &c.	82 00	Dismissed
504a	Dayton, Alfred E.	2,000 00	1,800 00
1,023a	Dayton, David, et al.	4,004 50	2,750 00
795a	Davey, David I., & ano.	2,500 00	350 00
10,546	Davis, Flora M., et al.	2,787 20	1,150 00
9,005	DeGroot, Henry	200 00	50 00
9,593	DeGroot, Henry	300 00	45 00
10,801	DeGroot, Henry	400 00	50 00
9,604	Deming, Howard C., et al..	900 00	525 00
10,758	DeMooney, William E.	1,000 00	Dismissed
10,749	DeNise, Mortimer G., & ano.	3,900 00	791 70
1,083a			
1,087a			
10,747	DeNise, Mortimer G., & ano.	3,000 00	1,044 94
7,261	Denman, Othello C.	434 00	Dismissed
2,429	Detroit Public Works Co....	4,481 98	Dismissed
10,609	Dhierfelter, Emil	3,600 00	2,475 00
466a	Donaldson, Louisa J., & ano.	11,125 00	5,460 30
1,099a	Donohue, Meta	4,504 50	2,800 00
1,061a	Donohue, Patrick, & ano....	3,004 50	1,800 00
2,511	Donovan, Jeremiah	52 00	Dismissed
2,918	Donovan, John	107 00	Dismissed
10,283	Doty, Helen S.	13,929 25	4,807 50
10,616			
1,868	Drake, John W., et al.	3,065 31	Dismissed
913a	Drake, Theodore A.	50 00	50 00
10,042	Drummond, John	6,246 90	983 06
2,435	Drury, William	119 25	Dismissed
7,214	Dunham, Frank T.	120 00	Dismissed
796a	Dunmore, Watson T.	200 00	100 00
10,471	Dupee, George H.	3,241 80	3,241 80
2,785	Dunn, Hugh	260 87	Dismissed
513a	Durand, Herman F.	77 08	Dismissed
10,602	Durkee, Mary Ann.	3,004 50	1,900 00
10,656	Du Shan, Joseph, & ano.	5,000 00	3,750 00

No.	Name of Claimant	Amount claimed	Amount of award
7,312	Eaton, Ida	\$210 00	Dismissed
631a	Eckard, Conrad J.....	2,506 85	513 70
988a	Edgett-Burnham Co.	2,421 00	1,300 00
2,121	Edison General Electric Co..	34,984 53	Dismissed
361a	Elmes, Ann M.....	330 00	125 00
350a	Elwood, Ephriam	1,000 00	300 00
10,382	} Emens, Lilla Alice.....	560 00	270 00
98a			
836a			
1,150a	Empire Couch Co.....	20,787 48	13,888 10
868a	Ensminger, John	4,200 00	2,250 00
9,493	Estrich, Paul	1,500 00	468 17
4a	Evans, Lewis	16,838 40	7,655 00
10,371	Fairbanks, Katherine	2,500 00	500 00
10,372	Fairbanks, William J.....	1,000 00	100 00
10,687	Fairport Lumber & Coal Co.	31,004 50	4,300 00
909a	Fairport, Village of.....	1,200 00	600 00
7,144	Fancher, Lewis	300 00	Dismissed
6,963	Fargo, Sarah	200 00	Dismissed
7,204	Faulter, Fred C.....	500 00	Dismissed
8,186	Fellows, Susan A.....	250 00	Dismissed
685a	Ferrara, Antonio, et al.....	39,841 87	31,935 55
(third determination entered on account of claim No. 433a, P. J. Carlin Construction Co.)			
538a	Finewood, Jacob	2,700 00	2,380 00
7,150	Finn, Albert G.....	458 50	Dismissed
9,302	Finnegan, John J.....	25,000 00	Dismissed
448a	First Nat. Bank of Newark..	6,500 00	3,500 00
10,296	Fischer, John	3,000 00	1,700 00
762a	Fisher, Robert S.....	4,150 70	1,751 80
7,118	Fisher, George, et al.....	1,186 00	Dismissed
771a	Fisk, J. Elbert.....	331 00	150 00
10,369	Fitts, Clara B., & ano.....	3,000 00	850 00
7,362	Fitzgerald, Emma H.....	1,900 00	Dismissed
8,864	Fitzsimmons, Anna	2,000 00	100 00

No.	Name of Claimant	Amount claimed	Amount of award
10,345	Flahaven, Michael	\$125 00	\$40 00
896a	Flanagan, John F.	2,500 00	1,700 00
889a	Floodman, Lewis	2,629 70	1,875 00
645a	Frame, William L.	5,280 00	2,198 28
10,389	Frankfort, Village of	769 55	769 55
7,851	Frear, William B.	3,660 00	Dismissed
10,168	Froelich, Ida	340 95	175 00
979a	Frye, William, Jr.	565 00	125 00
7,147	Gaffey, Patt	200 00	Dismissed
7,216	Gaffy, Edwin	1,060 00	Dismissed
10,323	Gardner, Frank S., & ano...	6,000 00	Dismissed
10,001	} Garnish, John, & ano.....	26,702 50	16,026 90
529a			
8,386	Garvey, Elizabeth	100 00	Dismissed
417a	Gates, Carl F., & ano.....	2,234 00	800 00
10,855	Gaymonds, John O.	4,184 80	1,833 60
10,322	Gerrard, Mary E.	263 55	175 00
6,321	Gifford, Reuben J.	2,174 00	Dismissed
6,255	Gilbert, Eli	197 00	Dismissed
10,689	Gilbert, Joseph, exec., &c...	22,004 50	17,000 00
10,751	} Goodnow, Charles L., & ano.	4,200 00	850 00
10,760			
7,153	Goodwin, Frank	300 00	Dismissed
8,534	Goodwin, Frank	300 00	Dismissed
10,791	Gott, Frederick E.	1,393 60	443 60
9,839	Glattus, Margaret E.	2,500 00	Dismissed
10,386	Graham, William	375 00	66 00
144a	Greene, Adaline M.	15,145 00	5,530 00
7,116	Gregg, Willis P.	381 90	Dismissed
9,895	Griffin, Emma, et al.	12,259 00	3,672 25
10,800	Griffin, John	200 00	75 00
9,595	Griffin, John, et al.	200 00	75 00
600a	Griffith, Lewis E.	2,212 17	Dismissed
497a	Grimshaw, William H.	770 10	770 10
342a	Groat, William, & ano.....	1,500 00	800 00
9,863	Guerin, James Herman, et al.	1,223 42	Dismissed
9,648	Guerin, John, & ano.....	3,393 00	312 75

No.	Name of Claimant	Amount claimed	Amount of award
1,141a	Guttenberg, Jacob, & ano...	\$10,001 50	\$4,100 00
759a	Guerslin, Herman, & ano., exec.	5,000 00	1,965 00
9,909	Haag, John	2,055 00	250 00
7,022	Hall, Arthur	212 00	Dismissed
9,366	Hall, Erasmus D., & ano....	2,041 95	300 00
598a	Hamilton, Albert H.....	928 95	Dismissed
971a	Halpin, James	2,600 00	950 00
806a	Hank, Fred	166 00	75 00
1,085	Hanor, Henry M.....	500 00	Dismissed
584a	Haney, Concette	18,000 00	7,729 00
585a	Haney, Frank O.....	11,500 00	2,950 00
9,020	Hanrahan, John, & ano....	9,276 00	2,420 00
589a	Hanson, Clarence H.....	25 00	25 00
404a	Harmon, Anthony, & ano..	3,575 00	1,325 00
652a	Hardy, William J., & ano..	804 50	125 00
14a	Harrington, Ralph W., by guard.	1,446 00	Dismissed
10,859	Harrington, Ralph W., by guard.	1,446 00	Dismissed
2,704	Harriman, Edward H.....	150 00	Dismissed
770a	Harris, Gordon G.....	350 00	225 00
3,929	Harris, William	250 00	Dismissed
7,110	Harrison, Achsah	341 00	Dismissed
999a	Harrison, James L., & ano..	269 50	125 00
4,955	Hart, Charles E.....	6,000 00	Dismissed
348a	Harter, Charles W., & ano..	5,256 30	2,104 20
1,080a	Hartranft, Hattie	3,500 00	2,000 00
97a	Harvey, John, & ano.....	850 00	600 00
10,545	Haskins, Charles, & ano....	8,748 90	3,099 62
1,151a	Hawes, Hiram	300 00	125 00
2,119	Hayes, Richard H.....	370 00	Dismissed
510a	Haynes, Walter H.....	77 08	Dismissed
729a	Hazen, L. J., & ano.....	1,410 10	564 48
9,628	Heath, Joseph H., & ano....	1,200 00	450 00
7,197	Helterline, Adam G.....	3,075 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
541a	Herkimer, County of.....	\$2,227 72	Dismissed
927a	Herman, Fred J.....	320 00	\$230 00
10,685	Herman, Frederick J.....	3,504 50	1,825 00
10,686	Herman, Frederick J., & ano.	10,504 50	4,200 00
10,483	Hermant, Ernest T.....	14,281 50	8,459 65
10,773	Hernon, Mary E., et al....	948 00	787 00
8,538	Hess, Clarence	480 00	Dismissed
9,053	Hess, Emma Louise	302 65	Dismissed
8,531	Hess, Hattie	250 00	Dismissed
9,575	} Hewitt, Arthur	2,000 00	660 00
10,804			
1,138a	} Higgins, Charles	825 00	Dismissed
8,253			
9,681	Higgins, George, & ano....	250 00	250 00
8,382	Higgs, James R.....	306 00	Dismissed
7,046	Hibbard, Edward W.....	80 00	Dismissed
9,311	Hilfinger, Alexander.....	Previous deter'n aff'd by App. Div.	Costs to State
7,363	Hill, D. Munroe.....	2,800 00	Dismissed
591a	Hill, Augusta R., exec., etc.	7,756 00	5,370 20
530a	Hinds, M. Catherine.....	2,038 00	450 00
7,218	Hines, Oscar E.....	225 00	Dismissed
7,243	Hines, Robert S.....	730 00	Dismissed
133a	} Hiscock, George L.....	3,800 00	1,350 00
10,442			
7,042	Hisert, Edward	1,773 00	Dismissed
10,067	Hitchcock, Mott D.....	216 50	150 00
635a	Hodge, Ella C.....	15,000 00	11,000 00
697a	Hoff, Christ	1,600 00	300 00
10,423	Hoffer, Emil	51 20	17 50
9,962	Hoffman, Norbert L.....	Previous deter'n aff'd by App. Div.	Costs to claimant
10,150	Holcombe, Harvey J., et al..	5,690 10	1,680 30
522a	Holington Company, The...	345 16	345 16
7,298	Holley, Henry, & ano.....	200 00	Dismissed
515a	Holridge, Thomas C.....	77 08	Dismissed
6,434	Hopkins, John A., & ano...	230 00	Dismissed
3,482	Horst, Charles	160 00	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
10,595	Hoyt, Valerie	\$1,000 00	\$125 00
7,114	Hubbard, Rozelle L.....	680 00	Dismissed
9,745	Huber, Frank	70 00	50 00
9,866	Hughes, Ann J.....	2,000 00	782 38
10,216	Hughes, William O.....	11,000 00	7,484 80
477a	Hughes, Emma A., et al....	21,175 10	7,000 00
9a	Hughes, William O., et al..	9,736 50	7,484 80
7,988	Hugson, Frederick W.....	5,608 00	Dismissed
10,680	Hulbert, Mina J.....	1,500 00	100 00
973a	Humeston, Henry	149 00	75 00
1,084a	Illick, Emma C.....	4,500 00	2,750 00
517a	Illingworth, Fred	77 08	Dismissed
747a	Jackson, Alice J	600 00	275 00
9,698	Jackson, Frank, & ano.....	5,350 00	2,222 30
9,637	Jaeschke, Veronica	24,000 00	13,550 00
10,170	James, George R.....	145 25	100 00
10,565	Johns, Elizabeth	500 00	Dismissed
8,841	Johnson, Latin A.....	7,991 55	Dismissed
2,512	Johnson, John	57 00	Dismissed
10,366	Jones, Alida E.....	500 00	250 00
4,160	Jones, John	190 00	Dismissed
731a	Jones, John M.....	1,800 00	750 00
9,390	Jones, Robert H.....	3,003 90	Dismissed
40a	Jones, Cora E., exec., etc...	32,325 00	Dismissed
945a	Jones, E. Willard, Com., etc.	85 00	85 00
10,696	Jordon, Hattie L.....	2,904 50	758 60
6,509	Judson, John	10,000 00	Dismissed
9,899	} Kaiser, Joseph	7,000 00	4,371 20
10,131			
740a	Kavanaugh, John E.....	83 50	70 50
621a	Kay, William E., & ano....	12,512 00	2,340 90
624a	Kearnan, Wm. S., & ano....	2,150 00	558 04
4,095	Kearney, Sarah M., et al...	2,000 00	Dismissed
7,111	Keefer, T. Jefferson.....	120 00	Dismissed
9,845	Keenan Lime Company	3,014 00	Dismissed
9,484	Keenan Lime Company....	150,693 75	Dismissed
10,025	Keenan Lime Company....	3,283 37	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
9,806	Kellar, A. J., et al.....	\$1,429 50	\$100 00
6,327	Kellogg, Chloe I.....	615 00	Dismissed
574a	Kelly, Charles L.....	2,113 60	1,647 70
926	Kelly, Simeon	500 00	Dismissed
387a	Kempf, Fred, & ano.....	1,434 50	473 40
10,355	Keegan, Martin	297 50	175 00
651a	King, Hattie L.....	2,004 50	400 00
859a	Kinser Construction Co....	453,905 00	Dismissed
7,268	Kirchner, Adolph, & ano...	1,000 00	Dismissed
9,196	Klein, William	300 00	Dismissed
7,152	Klock, George W.....	640 00	Dismissed
7,149	Klock, Mary	240 00	Dismissed
2,221	Knapp, Adrian B.....	40 00	Dismissed
10,614	Knauss, Albert H.....	1,200 00	Dismissed
1,097a	Koster, John S.....	1,997 00	1,075 04
1,095a	Krusemark, Charles, & ano.	1,229 05	614 73
978a	Kuhn, Henry, & ano.....	3,150 00	300 00
1,086a	Kuney, Elmer L., & ano....	500 00	125 00
9,554	Ladd, Alice H.....	500 00	300 00
7,203	Ladd, Calista B.....	750 00	Dismissed
7,166	Ladd, Mary Jane	1,500 00	Dismissed
8,535	Ladd, Mary Jane	1,500 00	Dismissed
637a	Lamay, George, & ano.....	300 00	150 00
10,783	Lambertson, Eugene S., & ano.	3,400 00	3,186 90
10,844	Lambertson, Eugene S., et al.	8,985 00	6,341 25
545a	Lannan, James, & ano.....	1,141 50	249 45
10,332 }	Lannan, James	240 00	75 00
10,882 }			
6,543	Lang, James	1,000 00	Dismissed
1,061a	Lang, Margaret, & ano.....	3,004 50	1,800 00
10,862	Lanning, Edwin N.....	187 00	Dismissed
7,221	Laskey, Antonio W.....	520 00	Dismissed
508a	Lawson, John E.....	77 08	Dismissed
622a	Leary, James F., & ano....	12,092 24	7,250 00
755a	Lefever, Matilda	4,500 00	2,650 00
10,225	Leake, Daniel L., et al.....	86,608 35	Dismissed

No.	Name of Claimant	Amount claimed	Amount of award
6,555	Leonard, Jennie L.....	\$108 00	Dismissed
737a	Lester, Catherine	58 00	\$58 00
758a	Light, William A.....	4,000 00	2,900 00
10,354	Limpert, John	108 46	75 00
445a	Lipe, Alida	1,426 80	700 00
10,153	Little, Henry M., et al.....	14,100 00	1,149 40
601a	Littleton, Martin W.....	6,000 00	Dismissed
9,660	Long, William, & ano.....	1,500 00	300 00
10,699	Long, John, et al.....	2,554 50	1,700 00
10,676	Loomis, Dennis	5,000 00	Dismissed
10,529	Loomis, Thomas R., & ano..	9,029 50	6,500 00
9,743	Loney, Henry	41 00	25 00
5,132	Long Island R. R. Co.....	Previous deter'n aff'd by App. Div.	Costs to State
7,311	Lord, John E.....	405 00	Dismissed
8,528	Loskey, Antonio W.....	550 00	Dismissed
7,234	Losky, Charles	374 00	Dismissed
10,465	Lowber, Priscilla, & ano....	9,547 50	3,452 50
10,378	Lower, Helen	74 80	50 00
8,082	Lumley, Roland J., & ano...	2,525 00	800 00
10,426	Lureman, Lewis H.....	15,286 24	8,500 00
2,786	Lynch, Christopher	659 37	Dismissed
2,920	Lynch, Hugh	107 00	Dismissed
7,379	Lynch, Mary A.....	200 00	Dismissed
1,147a	Mager, August, & ano.....	350 00	200 00
10,663	Maier, Charles	6,500 00	1,919 00
1,074a	Major, William, & ano.....	400 00	150 00
90a	Male, Frederick, & ano....	4,000 00	450 00
10,149	Mann, William H., & ano...	4,929 50	1,916 30
10,636	Manny, Euphemie	200 00	150 00
845a	Manufacturers' Assn. of Ful- ton, N. Y.....	14,737 45	Dismissed
7,579	Mapes, Charlotte, adm., etc.	20,000 00	Dismissed
736a	Mark, Charles W.....	100 25	75 00
512a	Marsh, James H.....	77 08	Dismissed
1,047a	Martin, J. Augustine, & ano.	450 00	150 00
1,043a	} May, Thomas	2,125 00	1,100 00
10,590			
10,280	McArthur, Daniel	22,836 50	5,088 08

No.	Name of Claimant	Amount claimed	Amount of award
1,865	McAllister Mfg. Co.....	\$200 00	Dismissed
137a	McBride, John C.....	18,249 50	\$5,216 87
8,230	McCabe, James, & ano.....	214 00	Dismissed
907a	McCabe, Nellie A.....	863 00	500 00
9,610	McClew, Paul, & ano.....	350 00	75 00
4,916	McCloud, Lewis	450 00	Dismissed
6,200	McComber, Jay	450 00	Dismissed
798a	McDonald, John A.....	4,500 00	2,050 00
10,542	McGrath, Mary Ann, et al..	1,500 00	1,139 10
1,000	McGuigan, James	70 00	Dismissed
426a	McNamara, Daniel F.....	604 65	100 00
427a	McNamara, Daniel F.....	538 70	100 00
6,484	McPherson, Peter J.....	808 00	Dismissed
6,293	Mead, Emory L.....	100 00	Dismissed
6,294	Mead, Emory L., & ano....	1,005 00	Dismissed
10,582	Meil, Christina MacGregor.	2,808 00	Dismissed
7,024	Meredith, Hugh	360 00	Dismissed
1,153a	Merrill, Guy L.....	400 00	300 00
7,223	Messick, Jane	500 00	Dismissed
10,660	Meyers, Regina	7,000 00	1,650 00
416a	Meyers, Regina	136 35	50 00
10,249	} Michnicz, Alex	306 00	125 00
354a			
10,812	Midgley, Cordelia	200 00	Dismissed
609a	Miller, Edward J.....	1,254 40	654 50
10,037	Miller, Henry	5,079 50	1,200 00
39a	} Miller, Irvin	4,950 00	1,800 00
781a			
135a	} Miller, Julia & Blaise, et al.	14,305 00	2,500 00
418a			
580a	Miller, John P.....	719 00	650 00
10,493	Miller, Newell S., & ano....	3,900 00	Dismissed
976a	Miller, Salomea	175 00	60 00
8,704	} Minch, Henry F.....	90 00	40 00
9,276			
579a	Minch, Henry F.....	250 33	200 00
577a	Minch, Henry F., et al., etc.	284 07	284 07

No.	Name of Claimant	Amount claimed	Amount of award
10,797	} Miner, John E.....	\$7,000 00	\$3,000 00
59a			
60a	Minot, Morton, et al.....	700 00	150 00
65a	Minot, Morton, et al.....	2,450 00	500 00
498a	Minster, Frederick	2,034 40	1,000 00
883a	Minton, Albert M., & ano...	200 00	75 00
10,722	Mitchell, Albert A., & ano...	1,504 50	450 75
9,742	Moriarity, Mary B.....	47 75	25 00
8,642	Morrison, John	200 00	Dismissed
10,764	Moss, Joseph	150 00	100 00
10,778	Mowers, Elizabeth	3,000 00	2,200 00
772	Mulheron, Patrick	2,520 00	Dismissed
127a	Munckton, James, & ano....	10,000 00	Dismissed
9,410	Murphy, Anna	501 95	Dismissed
10,155	Murray, Frances, & ano....	9,523 50	574 70
8,165	Murray, John	1,700 00	Dismissed
9,063	Mutual Life Ins. Co. of N. Y.	744 91	Dismissed
655a	Myers, Jane	350 00	200 00
279a	Naber, Joseph, & ano.....	2,587 25	1,607 10
10,441	Names, Laura A., & ano....	2,640 00	2,224 52
8,259	Naylor, George	10,000 00	Dismissed
10,752	Neiss, Arthur, & ano.....	1,000 00	Dismissed
7,163	Nesbitt, Charles W.....	575 00	Dismissed
1,092a	Newark, Village of.....	4,786 76	3,677 30
10,633	Newcomb, Royal M., & ano..	3,500 00	1,425 00
7,406	Newell, Luetta E.....	58 25	Dismissed
10,547	Newland, Alice E.....	500 00	Dismissed
9,649	New England Brick Co.....	3,508 00	3,292 00
440a	Niagara, Lockport & Ontario Power Co.	2,320 00	Dismissed
5,987	Nichols, Mark A.....	500 00	Dismissed
419a	Normand, Ursula Rowley...	156 10	75 00
10,554	N. Y. Cotton Batting Co....	2,000 00	500 00
7,933	Oatley, Elizabeth	50 00	Dismissed
3,290	O'Connor, Michael	200 00	Dismissed
10,618	O'Grady, Ellen	409 16	279 16

No.	Name of Claimant	Amount claimed	Amount of award
33a	Olney, George B., & ano...	\$35,000 00	\$17,597 00
518a	Olson, Eric	77 08	Dismissed
332a	Onondaga Co. Milk Association	Previous deter'n aff'd by App. Div.	Costs to claimant
8,140	Otts, David	150 00	Dismissed
1,173a	Ouchie, Eugene P.....	500 00	150 00
7,201	Owsley, John Guy.....	240 00	Dismissed
8,729	Pacelli, Louis	742 20	Dismissed
8,731	Pacelli, Louis	300 00	Dismissed
7,127	Page, John A., et al.....	780 00	Dismissed
7,160	Paine, Oliver	120 00	Dismissed
7,313	Palmer, Manning G.....	2,850 00	Dismissed
551a	Palmer, Mary E.....	7,949 65	4,767 60
7,172	Parker, John V.....	280 00	Dismissed
35a	Parker, Susan	5,050 00	1,800 00
799a	Parks, Nelson C., et al....	4,000 00	2,750 36
80a	Parsell, Delle B.....	2,764 70	1,100 00
528a	Passorelli, Felice, & ano....	2,000 00	550 00
7,264	Patchen, Lewis L.....	120 00	Dismissed
9,901	Paul, Peter V., & ano.....	20,300 00	10,074 62
8,274	Pelhorn, John A.....	150 00	Dismissed
2,182	Pelton, Eliza Jane.....	888 00	Dismissed
10,016	Perriga, Van Epps.....	85 65	65 00
10,140	Perry, William H.....	16,520 00	4,000 00
10,708	Pfahls, Chris. J.....	72 00	50 00
7,148	Phillips, Elijah H.	5,190 00	Dismissed
8,536	Phillips, Elijah H.	4,040 00	Dismissed
7,321	Phillips, James E.	269 50	Dismissed
7,217	Phillips, Wendell E.....	346 66	Dismissed
7,233	Phillips, William	1,065 00	Dismissed
8,537	Phillips, William	330 00	Dismissed
8,533	Phillips, Wendell E.	320 00	Dismissed
9,822	Phillips, Welcome	100 00	60 00
10,488	Pickard, Sarah J., et al....	3,123 40	534 00
522a	Piedmonte, John	355 00	100 00
1,077a	Pietrallinio, Cosmo	150 00	100 00
9,002	Pike, Susan	200 00	Dismissed
10,425	Pillmore, William F.....	57,600 00	26,160 87

No.	Name of Claimant	Amount claimed	Amount of award
10,436	Pilmore, Chesler	\$16,000 00	\$8,264 25
10,000	Place, Daniel, & ano.....	150 00	50 00
8,394	Platt, David S.....	400 00	Dismissed
10,330	Plumb, Louisa M.....	4,000 00	1,550 00
784a	Pollok, Lorenzo D., & ano...	200 00	100 00
7,304	Poppleton, Moses	235 00	Dismissed
7,192	Porter, Mary L.....	470 00	Dismissed
52a	Potter, George S.....	15,946 00	4,783 80
10,018	Potter, John W., & ano.....	20,210 00	10,638 50
977a	Pratt, Henry M.....	680 00	150 00
588a	Quackenbush, Gilbert H.....	51 00	40 00
567a	Quinn, Elmer G.....	615 00	150 00
7,078	Ramsay, Alonzo	10,000 00	Dismissed
384a	Rand, Lucia A., & ano.....	5,000 00	3,000 00
10,152	Rand, Philip C., et al.....	3,329 50	2,850 00
9,740	Rausch, Edward J.....	64 00	37 50
9,741	Rausch, Matthias L.....	119 32	75 00
9,925	Reed, Francis	175 00	175 00
582a	Reese, William A.....	117 00	90 00
499a	Remington, Lake	2,800 00	475 50
9,744	Rich, Herman J.....	111 00	50 00
9,231	Rice, Fred T.....	690 70	400 00
9,991	Riverview Cemetery Asso....	2,000 00	325 00
2,513	Robbins, Garrett	74 00	Dismissed
8,325	Roberts, William	150 00	Dismissed
9,612	Roberts, William, & ano....	500 00	258 00
10,026	Robertson, Romaine C.....	822 19	225 00
10,502	Robertson, Clarissa	3,300 00	1,800 00
910a	Robertson, Thomas	1,200 00	600 00
371a	Rochester, Syracuse & East- ern R. R. Co.....	1,550 00	600 00
370a	Rochester, Syracuse & East- ern R. R. Co.....	2,000 00	500 00
376a	Rochester, Syracuse & East- ern R. R. Co.....	4,050 00	1,655 37
374a } 369a } 375a }	Rochester, Syracuse & East- ern R. R. Co.....	975 00	650 00

No.	Name of Claimant	Amount claimed	Amount of award
735a	Rodgers, Bridget, adm., &c..	\$10,000 00	Dismissed
689a	Rolffe, George H., trustee, &c	2,000 00	\$500 00
9,075	Roman, George R.	40 00	Dismissed
961a	Rosenblatt, Helene	7,212 14	Dismissed
10,517	Rounds, William A.	2,500 00	1,300 00
491a	Rudd, Edward G., et al.	22,358 08	11,300 00
10,825	Russ, A. Eugene.	1,413 55	700 00
10,348	Russell, Charles, & ano.	286 56	125 00
2,784	Ryan, William	270 00	Dismissed
9,115	Sabetta, Frank	1,002 60	Dismissed
9,078	Sabetta, Frank	100 00	Dismissed
9,818	Salisbury, Lonzon G.	914 79	300 00
4,426	Sanders, Barent B.	600 00	Dismissed
3,128	Satterlee, Daniel, & ano.	275 00	Dismissed
3,171	Satterlee, Lemuel	82 00	Dismissed
10,727	Savage, Margaret	704 50	500 00
954a	Schadow, Karl L.	175 00	75 00
9,816	Sayles, Edward	531 50	31 50
695a	Schilling, William	500 00	225 00
337a	Scholtzhauer, Adam	10,193 75	Dismissed
10,038	Schooler, Frank J., & ano.	529 50	200 00
1,090a	Schott, Kittie A.	10,500 00	7,000 00
7,026	Schroeppel, Albert W., et al.	3,240 00	Dismissed
10,506	Schumacher, Nicholas, & ano.	9,718 30	Dismissed
7,025	Schroeppel, Albert W.	480 00	Dismissed
10,840	Seaman, Ella V.	1,137 10	500 00
9,738	Seaman, George S.	240 00	170 00
352a	Seeber, Ella E.	3,295 40	1,500 00
9,699	Seymour, Lena A.	9,880 00	Dismissed
2,796	Sherrill, Matthew D.	214 15	Dismissed
496a	Shaper, Daniel C.	500 00	400 00
6,323	Sherwood, Cora Poland, & ano.	850 00	Dismissed
7,597	Sherwood, Wallace, & ano. .	1,044 00	Dismissed
1,117a	Shewman, Emma L., et al. .	500 00	175 00
1,081a } 1,082a }	Shiley, John, & ano.	13,500 00	6,600 00

No.	Name of Claimant	Amount claimed	Amount of award
9,165	Shipman, Sarah D., & ano..	\$5,667 49	\$2,600 00
7,380	Shuelke, William C.....	360 00	Dismissed
2,327	Shurter, Joseph W., & ano..	1,470 00	Dismissed
10,588	Sgro, Cesaro	800 00	250 00
10,086	Siegel, Andrew	4,429 50	1,325 00
10,134	Silsby, Seth, & ano.....	150 00	150 00
656a	Simonds, Henry S., et al....	3,769 40	1,500 00
802	Simmons, Austin, estate of..	415 00	Dismissed
7,027	Sitterley, La Rue.....	900 00	Dismissed
7,205	Slauson, Preston	240 00	Dismissed
405a	Smith, Eva M., & ano.....	7,500 00	3,069 00
9,968	Smith, John L.....	156 00	40 00
975a	Smith, Frank	75 00	50 00
566a	Smith, Isabella	500 00	100 00
48a 810a	} Smith, William C.....	3,000 00	524 80
9,003			
1,243	Smith, Mary L.....	200 00	25 00
1,243	Smith, William W.....	200 00	Dismissed
1,244	Smith, William W.....	150 00	Dismissed
763a	Smith, Wm. C., & ano.....	15,110 30	5,791 08
10,528	Spaulding Hardware Co....	1,607 50	Dismissed
3,477	Speisser, Henry	150 00	Dismissed
7,115	Spencer, W. Ward.....	490 00	Dismissed
7,113	Spencer, William H., & ano.	830 00	Dismissed
7,112	Spencer, Clarence B.....	280 00	Dismissed
933a	Spies, Frederick, & ano....	4,836 05	2,486 70
10,072	Sporie, Charles, & ano.....	6,581 90	2,413 10
4,795	Sprague, Phebe A.....	10,250 00	Dismissed
526a	Spuyten-Duyvil Cons. Co...	11,004 96	3,700 00
570a	Stadleman, Matilda	707 00	200 00
605a	Stark, John	3,500 00	1,750 00
10,421	Starkweather, Harriet P....	1,852 50	1,500 00
400a	State Exchange Bank of Hol- lev, N. Y.....	4,500 00	2,300 00
10,166	Sterling, Mary F.....	115 00	115 00
632a	Stewart, Alexander M.....	2,700 00	1,100 00
1,044a	Stickney, Andrew J., & ano.	8,500 00	2,750 00

No.	Name of Claimant	Amount claimed	Amount of award
.7,215	Stewart, Dan	\$120 00	Dismissed
10,515	Stimers, Harriet A.....	400 00	Dismissed
10,724	Storms, William E.....	8,004 50	\$2,458 00
286a	St. Peter & Paul's Church of Frankfort, N. Y.....	3,072 10	900 00
878a	Strohm, Charles H., & ano..	1,154 50	773 62
7,190	Stuart, Wilson	500 00	Dismissed
10,606	Styles, Joseph, & ano.....	629 50	500 00
7,297	Sumner, Polly, et al.....	200 00	Dismissed
514a	Swanson, Albert	77 08	Dismissed
7,180	Sweeney, James	150 00	Dismissed
2,514	Sweeney, John	55 00	Dismissed
3,476	Sweeney, Thomas J.....	600 00	Dismissed
679a	Sweeney, William J.....	1,500 00	525 00
1,228a	Sweezy, Jerome A., & ano..	3,249 30	2,800 00
10,013	Sybrandt, Charles G.....	7,000 00	2,680 65
10,603	Syndicate Real Estate & In- vestment Co.	11,529 50	819 00
10,604	Syndicate Real Estate & In- vestment Co.	2,232 50	750 00
539a	Tank, Frederick	2,400 00	1,820 00
429a	Taylor, Elmer E.....	1,250 00	750 00
430a	Taylor, Elmer E.....	3,500 00	1,367 37
8,379	Teachout, Jerome C.....	50 00	Dismissed
10,375	Thompson, Edward	121 45	80 00
872a	Thompson, Emily J., et al..	11,704 16	4,421 42
1,998	Thorn, David	45 00	Dismissed
2,081	Thurston, George L.....	1,244 00	Dismissed
2,082	Thurston, George L.....	1,000 00	Dismissed
9,340	Toll, T. Mitchell, & ano....	7,551 95	3,500 00
10,164	Tobin, Delia, adm., etc....	390 80	225 00
10,044	Totten, Marion D., & ano...	8,848 80	3,000 00
7,193	Tracey, Elizabeth G.....	180 00	Dismissed
10,391	Trevor, Francis, Jr.....	213 25	145 00
32a	Tremain, Jennie H.....	5,750 00	Dismissed
8,403	Trippett, T. A.....	320 00	Dismissed
10,364	Tucker, Catherine	125 00	80 00

No.	Name of Claimant	Amount claimed	Amount of award
10,365	Tucker, James, & ano.....	\$200 00	\$70 00
509a	Turner, Peter, & ano.....	77 08	Dismissed
10,480	} Uhle, Bianca	9,244 80	5,950 00
10,481			
1,128a	Ullrich, Gustave, & ano.....	4,500 00	3,500 00
21a	} United Boxboard Co.....	11,516 50	2,427 00
29a			
30a			
10,691	Utter, Charles H., & ano....	2,004 50	950 00
2,436	Van Arnum, Lewis S.....	117 50	Dismissed
420a	Van Buren, Volkert	1,380 00	50 00
1,450	Van Derzee, Jane	150 00	Dismissed
1,451	Van Derzee, Martin	200 00	Dismissed
10,774	Van Derlyke, John	704 50	225 00
1,022a	Van Duser, Sarah	3,504 50	2,225 00
10,099	Van Slyke, Edgar, & ano... 10,800 70	4,424 22	
10,051	Verdow, Anthony, & ano... 1,001 50	525 00	
8,318	Vernor, Mary A., & ano.... 12,500 00	Dismissed	
546a	Vincelli, Domenico	300 00	75 00
544a	Vincelli, Joseph, & ano.... 335 00	200 00	
9,488	Vincent, Hattie A.....	500 00	320 00
1,078a	Vindetti, Vincenzo	500 00	175 00
604a	Vord, Robert	887 50	323 64
10,261	Wager, Oscar F.....	9,316 00	5,482 50
9,693	Wallace, Edward L.....	250 00	Dismissed
285a	Wallace, Patrick F.....	50 00	50 00
9,217	Waite, Levi C.....	Previous deter'n aff'd by Court of Appeals	Cost to State
9,015	Walling, Dorcas	100 00	Dismissed
399a	Walters, Eli	344 00	200 00
120a	Walters, John, & ano.....	1,731 00	1,100 00
789a	Walton, John H.....	6,481 00	2,300 62
10,757	Warner, Frederick, & ano... 1,950 00	500 00	
8,632	} Warner, Libbie D., & ano... 11,760 80		3,257 25
10,246			
627a	Ward, Harriet P.....	1,000 00	500 00
857a	Watts, Pannell, & ano.....	590 00	150 00
871a	Wauful, Harriet E.....	10,875 26	4,836 47

No.	Name of Claimant	Amount claimed	Amount of award
10,051	Webb, George C.....	\$633 47	Dismissed
9,703	Weaver, Ella J.....	1,000 00	\$350 00
10,363	Wegner, Oscar	3,460 00	2,375 00
7,949	Welch, Margaret	1,250 00	Dismissed
7,506	Welch, Margaret	1,250 00	Dismissed
8,215	Welcher, Edward A.....	500 00	Dismissed
7,367	Wells, Henry D.....	414 00	Dismissed
410a	West Shore R. R. Co.....	516,041 81	Dismissed
620a	Wethy, Sarah E.....	280 25	100 00
479a	Wheat, Emma, et al.....	1,078 25	400 00
6,487	Wheeler, William P.....	1,000 00	Dismissed
7,189	Whipple, G. W.....	115 00	Dismissed
10,035	White, George B., & ano....	3,833 90	1,500 00
20a	White, Harry F.....	12,086 40	5,852 65
6,201	White, Frank	1,227 00	Dismissed
486a	White, Minna Horton	8,000 00	4,400 00
772a	White, Patrick S.....	170 00	150 00
9,695	Whiting, Carrie E.....	500 00	300 00
10,504	Whitmore, Ella	7,024 90	1,053 50
709a	Wilbor, Julia C.....	720 00	300 00
10,640	} Wilbur, William	6,923 60	4,464 00
10,641			
9,653	White, Mary J., adm., etc..	Previous deter'n rev. by App. Div.	Costs to claimant
8,180	Wilcox, Vernard F.....	700 00	Dismissed
677a	Wilder, Lillian M.....	3,900 00	3,300 00
478a	Wilkinson, Wm. E., et al...	6,445 50	1,541 88
382a	Willard, Morris W.....	2,000 00	603 85
383a	Willard, Morris W., & ano..	3,000 00	994 00
10,678	Williams, Adriana D.....	5,000 00	Dismissed
10,460	Williams, Charles S.....	350 00	Dismissed
8,532	Wiltse, Catherine	150 00	Dismissed
10,497	Widrig, Hattie	200 00	Dismissed
10,661	Williams, George L.	5,000 00	1,392 71
9,691	Wildey, Thomas M.....	1,000 00	558 00
8,144	Williams, Alice E.....	162 00	Dismissed
485a	Willow Hill Realty Co.....	3,971 50	1,985 75
10,623	Wilson, Clarence E., & ano..	300 00	150 00

No.	Name of Claimant	Amount claimed	Amount of award
10,266	Wilton Ice Company.....	\$11,000 00	\$5,000 00
10,267	Wilton Ice Company.....	1,275 00	Dismissed
578a	Wittemier, Charles, & ano...	241 78	150 00
6,348	Wrape, Walter N.....	375 00	Dismissed
6,202	Wood, Georgiana	750 00	Dismissed
7,157	Wood, Jennie	1,500 00	Dismissed
10,036	Wood, Fannie C.....	2,770 50	1,334 60
7,060	Wood, William S.....	160 00	Dismissed
10,076	Woodin, Anson B., & ano...	12,000 00	7,197 00
10,692	Woodruff, Minnie	3,004 50	Dismissed
95a	Wurz, Mary K., & ano.....	3,672 00	1,836 00
602a	Years, Fred, & ano.....	442 00	292 00
953a	Yoran, Mary L.....	25 00	25 00
813a	Zeigler, Charles J.....	2,000 00	1,550 00
10,139	Ziehl, Gustave, & ano.....	1,000 00	525 00
9,804	Zoller, Frederick, & ano....	229 50	40 00
10,087	Zurbrugg, Bertha A.....	1,343 85	500 00

In the foregoing 764 disposed of claims the total

amount claimed is the sum of..... \$4,053,546 46

The total amount of awards made therein, ex-

clusive of interest, is the sum of..... 892,066 55

Leaving a difference between amount claimed

and amounts of awards of..... \$3,161,479 91

Of the foregoing 764 cases disposed of, 478 claims were tried and stipulated, 280 dismissed, 6 cases which had been appealed, decision having been rendered in same, determinations for costs were entered. Seven hundred and sixty-four total claims heard and disposed of during 1913.

In addition to the above the report of William B. Milliman, Esq., Special Examiner and Appraiser of Canal Lands, for the year 1913, shows that 255 settlements covering 300 parcels of land were made by him, amounting to the sum of \$645,642.23.

These 255 settlements will foreclose the filing of at least as many claims before this Board and consequently eliminate the time and expense of trials.

Total number of claims filed during 1913....	558
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Amount claimed in said 558 claims is \$15,497,159.52 as follows:

11 contract claims	\$1,360,288	55
27 negligence claims	217,363	14
29 miscellaneous claims	73,031	26
93 leakage and overflow claims.....	107,222	90
398 Barge Canal, permanent appropriation, water power, and damages incidental thereto	13,739,253	67
<hr/>		
558 Total	\$15,497,159	52

Total number of claims filed during the year 1912..	677
Total number of claims filed during the year 1913..	558

It will be noted from the above that there were 119 less claims filed in the year 1913 than in the year of 1912. This can be accounted for from the fact that it is estimated that nearly all of the remaining claims for Barge Canal appropriations of land have been filed.

The construction of the Barge Canal necessitated the appropriation of considerable land throughout the State. This accounts for the great increase in the number of claims filed during the past three years. However, the Board hopes to dispose of all the land appropriation cases during the year 1914. This will materially reduce the number of claims on file.

The following is a complete list of all claims now on file, pending and undecided:

- 1166 leakage, overflow and damage to personal property.
- 649 Barge Canal permanent appropriation claims.
- 228 Barge Canal Damage claims.
- 44 contract claims.
- 89 negligence claims.

20 tax refund claims.

9 Saratoga Reservation claims.

128 compensation claims.

56 miscellaneous claims.

2389 Total undisposed of claims.

It will be noted that in the above list of "undisposed of claims" there are left only 649 permanent appropriation claims, for land taken by the State.

The claims, 1,166 in number, for "leakages and overflow" embrace at least five hundred claims which are practically abandoned, not having been noticed for trial by claimants during a period of at least five years. The Board expects, this year, upon notice to claimants, to dismiss or compel a prompt trial of these claims.

All of which is respectfully submitted,

JOHN JEROME ROONEY,

WM. A. GARDNER,

JAMES C. McDONALD,

Commissioners of the Board of Claims.

Dated, February 24, 1914.

STATE OF NEW YORK

REPORT

OF THE

COMMISSION TO REVISE THE
BANKING LAW

TRANSMITTED TO THE LEGISLATURE FEBRUARY 26, 1914

ALBANY
J. B. LYON COMPANY, PRINTERS
1914

STATE OF NEW YORK

No. 33.

IN SENATE

FEBRUARY 26, 1914.

Report of the Commission to Revise the Banking Law.

To the Honorable, The President of the Senate, Albany, N. Y.:

SIR. — We have the honor to submit to the Legislature, pursuant to chapter 705 of the Laws of 1913, as amended by chapter 3 of the Laws of 1914, the report of the Commission to Revise the Banking Law of this State, in the form of a bill containing new chapter 2 of the Consolidated Laws, which, we believe, contains as directed by the Legislature, a banking law adapted to present business conditions, expressed in clear and concise language. It is accompanied by a bill containing amendments to the finance law rendered necessary by changes in the banking law. While the proposed banking law will in itself indicate the work performed by the commission, we consider it proper to review briefly its work and state the principles by which it has been guided.

In matters of form and arrangement, the commission has been guided not only by the advice of counsel, but by the opinions of some of the most eminent authorities in the work of statutory revision, men who are devoting much time to the problem of reforming and simplifying our statutory law. The members of the commission appointed by the Superintendent of Banks were representative of the various classes of bankers and banking institutions engaged in banking in this State, of business and commercial interests and included attorneys with special banking experience and technical knowledge of banking law.

In order to give adequate consideration to the various subjects presented for the attention of the commission, it was subdivided into committees with special duties, and repeated hearings were given to the various interests affected by proposed changes in the statute.

In order to give the widest publicity possible to proposed reforms and to invite helpful criticism, redrafts of the different articles of the banking law were from time to time submitted to the representatives of these interests, and the commission is indebted to intelligent students of banking reform throughout the State for suggestions made.

In matters of rearrangement, it has been the aim of the commission to make each of the articles of the banking law complete in itself and to define terms whenever definition was found necessary to a complete and accurate comprehension of the language used. We found a statute consisting of a rather rough compilation of various laws couched in the same language used in statutes enacted early in the last century. As no real revision of the statutes had ever been attempted, the language used was in many cases crude and full of ambiguities. Many of its provisions were obsolete and amendments had been made from time to time, in order to meet special needs, in such a manner as to increase its incongruities and uncertainties and emphasize the lack of harmony and uniformity in the various articles.

The provisions of the Banking Law with reference to the powers and duties of the Superintendent of Banks, which were formerly found at irregular intervals throughout the entire law, have been combined in a separate article with proper references wherever necessary in succeeding articles. Few changes have been made in the powers of the Superintendent, except to give him power to investigate violations of the banking law by corporations not organized under it and by individuals engaged in business in defiance of the prohibitions contained in it. His various powers and duties in connection with the liquidation of failed institutions which were formerly combined in one extremely long and involved section have been separately stated and slightly amended as the result of the experience of the Department during the last six years. We have also recommended an extension of the term of office of the Superintendent and an increase in the salary attached thereto to correspond with salaries paid other state officers charged with the same onerous duties and heavy responsibilities and more

nearly commensurate with the salaries paid officers of institutions under his supervision.

The work of the commission was somewhat retarded by the repeated postponements in the National Congress of action upon the present Federal Reserve Act, in view of the necessity of conforming the provisions of our State laws to it, in order to create a harmonious and sound financial system. The principal changes in the articles relating to banks and trust companies have been made in order to accomplish this result without in any way weakening the strength and stability of the state system. Under the proposed bill, State banks and trust companies are given full power, if they so desire, to become member banks of the Federal reserve bank established in the territory in which they are located and to do all things which are required of them as such member banks, with the very proper reservation that they shall remain in all respects subject to the provisions of the laws of this State and to the supervision of the Superintendent of Banks. The present article upon banks contains very archaic provisions for the issue of a state currency handed down from early in the last century, and it seemed wise to the commission, in view of the fact that it is impracticable under the present Federal laws to issue a State currency, to entirely eliminate these obsolete provisions. If it should at any time in the future become practicable, and seem wise, for the State banks to issue currency, provisions based upon modern scientific theories and the experience of the Federal reserve banks and their member banks can very easily be inserted in the statute. State banks and trust companies were also given power to issue letters of credit and to accept time drafts, a power which has been conferred upon National banks by the Federal Reserve Act, and to establish branches in foreign countries under the same conditions.

An article giving the Superintendent of Banks supervision over the private bankers now under the supervision of the Comptroller and greatly extending jurisdiction over private bankers has also been inserted in the banking law, after many hearings and very serious consideration. It must be admitted that the words "banker" and "banking" have been appropriated and used without hindrance by individuals doing such diverse classes of business that it has been difficult to prepare an article upon this subject entirely satisfactory to the commission without seriously interfering with the rights of individuals and possibly injuriously affecting

the business interests of the State. We believe the enactment of the proposed article of the banking law, however, will not do injustice to any one and will afford much needed protection to depositors, especially those whose savings are small and whose financial ability is slight.

It is essential, we believe, that private bankers should be compelled to segregate the assets in which the money of depositors is invested and prohibit them from appropriating the money of depositors to their own use or loaning it to firms of which they are members, or to corporations in which they have a considerable interest. In case of failure, moreover, depositors should have a prior lien upon the assets of any private banker which have been purchased with their funds. Segregation, outside of physical segregation, can best be accomplished by keeping separate books of account, under the direction of the Superintendent of Banks, and by requiring all securities, deeds and mortgages taken or held by a private banker in his banking business to contain the descriptive words "as a Private Banker", in order to characterize the ownership. We therefore recommend that it be made a misdemeanor for a private banker to omit the descriptive words from any such security in which they can be properly used and that it be made a felony for him to appropriate the funds of depositors to his own use. If the proposed bill should become a law, the repeal of the statutes giving the Comptroller limited jurisdiction over private bankers will necessarily follow.

The Savings Bank Article of the present law has been greatly altered by eliminating ambiguous provisions and clarifying crude and indefinite provisions that have been handed down from the earliest statutes with reference to such corporations. Provisions have been inserted in the statute safeguarding depositors with newly formed savings banks by requiring incorporators to pay the expenses and insure the solvency of such an institution during its early years. It is also provided that the initial guaranty fund contributed by the incorporators and trustees shall be augmented at each dividend period by setting aside thereto definite amounts from the net earnings for the period, until the guaranty fund attains sufficient size to insure solvency in periods of financial stress. Savings banks as well as other banking corporations are permitted to merge and it is provided that only in cases of merger and pursuant to a merger agreement can branch offices of a savings bank be maintained.

While at one time it was believed desirable to amend the article relating to investment companies and a number of public hearings were given to representatives of various realty and investment companies, it was finally concluded not to embody any substantial changes in this article in the present bill. Provisions contained in the present article have been rearranged to conform to the general plan of arrangement adopted by the commission and the language used rendered more definite than heretofore. The results of the investigations made by the commission may be embodied in a separate bill and submitted to the Legislature at a later date.

There have been for many years in existence in this State a class of remedial corporations designed to relieve worthy, but necessitous, borrowers from the exactions of the so-called "loan sharks." Such corporations have been formed by men prominent in benevolent work in different parts of the State and have been rapidly increasing both in number and efficiency in recent years. They have heretofore been known as "Personal Loan Associations," and one was recently incorporated in the city of New York with a capital of \$200,000. Comparatively large personal loan associations have also been organized in recent years by the charitably inclined in other large cities of the State. Heretofore these corporations have only been authorized to make loans at interest exceeding the legal rate upon sums of less than two hundred dollars and upon the pledge of personal property or upon chattel mortgages upon such property. Under the present law, their powers are extended, under severe restrictions, so as to enable them to make similar loans upon indorsed notes and upon the assignment of salaries. Individuals are also given the power to engage in similar business under the same severe restrictions and penalties. The Superintendent of Banks is also authorized to appoint a special deputy to have the immediate charge of the execution of the provisions of the article relating to Personal Loan Companies, as they are now termed, and Personal Loan Brokers, to investigate violations of the law and to prevent the oppressive practices now in vogue in connection with loans of this character. As the purpose of this article is the same as the bill passed last year providing for the appointment of a supervisor of small loans, this law will be repealed should the present banking law be enacted.

During the past few years various commissions have been engaged in the study of the coöperative loaning systems so prevalent

in Germany and other European countries. As a result of their investigations and studies an article authorizing the formation of Credit Unions was incorporated in the banking law last year. This article has been adopted as a model by those now engaged in framing a National law upon this subject. The Credit Unions thus authorized are designed for two purposes — to assist worthy, but necessitous, borrowers in the cities of the State and to enable our farmers to unite their resources for the purpose of obtaining small loans upon personal credit. This article has been revised with the assistance of the experts who framed the original law, and it is believed that the present article is a great improvement upon the former and may well serve as a model statute in the future.

The savings and loan association system of this State has through many trials and under adverse conditions been developed to such an extent that it has been believed by the same students of European systems that it embodies a better coöperative system of land credits than any of the European systems to which attention has been called. Its great defect in so far as obtaining money at a low rate of interest is concerned has been the lack of a central institution. This defect has now been provided for by authorizing the establishment of a Land Bank of the State of New York, which may be organized by savings and loan associations having not less than five million dollars of resources. The savings and loan associations of the State have been making very rapid progress in recent years and now have aggregate resources of approximately \$65,000,000, and, if the system can be extended to agricultural sections of the State, it is believed that, through coöperation, sections where farms are now being abandoned may be again more fully populated and the whole State profit from the development of those sections and the consequent decrease in the cost of living.

Attention has already been called to some necessary amendments to the Penal Law. During the past few years, a number of the penal provisions of the National Banking Act have been incorporated in the Penal Law of this State. It has, however, been necessary in order to adapt them to the different sections in which they were inserted to change the phraseology to such an extent that the State does not derive particular advantage from decisions made by the United States Courts under the National Banking Act. We, therefore, recommend that section 5209 of

the United States Revised Statutes be incorporated in the Penal Law in its entirety and in the phraseology used in that act.

Respectfully submitted,

A. BARTON HEPBURN, *Chairman.*

FRANK M. PATTERSON, *Acting Chairman.*

LOUIS GOLDSTEIN,

JNO. H. GREGORY.

RANDALL S. LeBOEUF.

ELLIOTT C. McDUGAL.

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CHAS. A. MILLER.

JOHN HARSEN RHOADES.

LEOPOLD STERN.

FRANK E. HOWE.

STATE OF NEW YORK

REPORT

OF

State Engineer and Surveyor J. A. Bensel

ON

**Surveys of Black River Canal Extension, Chemung
Canal Reconstruction, Glens Falls Feeder Conversion,
Flushing River and Jamaica Bay Canal Con-
struction, and Newtown Creek-Flushing Bay
Canal Construction, as directed by
Chapter 220, Laws of 1913**

TRANSMITTED TO THE LEGISLATURE MARCH 11, 1914

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1914**

STATE OF NEW YORK

No. 34.

IN SENATE

MARCH 11, 1914.

Report of State Engineer and Surveyor on Surveys and Estimates of Cost of Black River Canal Extension, Chemung Canal Reconstruction, Glens Falls Feeder Conversion, Flushing River and Jamaica Bay Canal Construction and Newtown Creek-Flushing Bay Canal Construction, as directed by Chapter 220, Laws of 1913.

*To the Honorable, The Legislature of the State of New York,
Albany, N. Y.:*

GENTLEMEN.—Chapter 220 of the Laws of 1913, providing for the making of surveys for improving and extending the canal system of the State, and making an appropriation therefor, is as follows:

“Section 1. The state engineer and surveyor shall cause surveys to be made for the improvement of the canal system of the state by the extension of the Black River canal, the reconstruction of the Chemung canal, the conversion of the Glens Falls feeder into a canal, the construction of a canal between Flushing river and Jamaica bay and the construction of a canal from Newtown creek, sometimes known as Nassau river, to connect with the proposed canal between Flushing bay and Jamaica bay. Such officer shall make a report to the Legislature of nineteen hundred and fourteen, embodying the result of his investigations, together with estimates of the cost for which such work may be done.

“ § 2. The sum of thirty-five thousand dollars (\$35,000), or so much thereof as may be necessary, is hereby appropriated for the purposes of this act, out of any money in the treasury, not otherwise appropriated, payable by the treasurer on the warrant of the comptroller, on the order of the state engineer and surveyor.”

Pursuant to this provision, surveys of the specified routes have been made under the direction of the State Engineer and estimates of the probable cost of constructing the proposed canals have been prepared, the basis of estimate being that of a channel of Barge canal dimensions similar to that provided by chapter 147 of the Laws of 1903 and chapter 391 of the Laws of 1909, that is, a minimum depth of water of 12 feet and minimum bottom width of prism of 75 feet. The locks also have Barge canal dimensions — an available chamber length of 311 feet, a width of 45 feet, and a depth of water on miter-sills of 12 feet.

Inasmuch as each of these projects involves radically different features, they will be taken up in order and treated separately.

Accompanying the report there are maps, profiles and typical sections of the proposed canals.

BLACK RIVER CANAL PROJECT.

Pursuant to the provisions of chapter 190 of the Laws of 1911, the State Engineer made surveys and prepared estimates covering the improvement of the so-called Black River canal from Carthage to Sacketts Harbor, on Lake Ontario. A detailed report of this survey was submitted to the Legislature as a part of the 1912 State Engineer's report, the most feasible route recommended in which was as follows:

“ Beginning at Carthage the Black river is utilized to within a short distance of Deferiet. Then comes a cut-off to the east of this village, till the river is regained a little to the north. From this point to the eastern end of Huntington island, just east of Watertown, the river is used, with the exception of a cut-off across a bend at Black River village. The river channel is used around the north side of Huntington island and then a land line is followed which

extends along the northern outskirts of Watertown, passing, near its western end, into Cowans creek and entering Black river at the mouth of this creek, a point which is opposite the fair grounds. Then the river is again utilized to Glen Park, where a line to the south of the river is begun, which runs to the headwaters of Muskalonge creek and then follows this stream to its entrance into Lake Ontario through Muskalonge bay, which is an indentation some three miles from Sacketts Harbor."

At the time of submitting this report, the estimated cost of improving the Black River canal was given as \$16,300,000. Since making this report, certain decisions have been handed down by the courts with respect to the settlement of damages growing out of the appropriation of lands and waters which, to my mind, warrant a revision of the estimate of land and water damages, and I therefore beg to report at this time that the revised estimate for the cost of improving the Black River canal along the route as above noted is \$19,000,000.

CHEMUNG CANAL PROJECT.

The general route of the Chemung canal extends from the southerly end of the Cayuga and Seneca canal improvement at Ayers street, Montour Falls, southerly through Horseheads and Elmira and follows the valley of the Chemung river to a point on the Pennsylvania state line near Waverly, covering a distance of approximately thirty-seven miles. It has been assumed that the cargo capacity requirements for this canal would be 2,000,000 tons per season.

In order to provide water for the proper operation of this canal, it will be necessary to construct a feeder extending from the Chemung river in the vicinity of Corning to a point on the summit level near Horseheads. The line of this feeder follows approximately that of the abandoned Chemung canal feeder, and it will be necessary to construct a movable dam at a point near Corning to control the water level of the pool from which waters are to be diverted for the purpose of feeding to the summit level.

In general, the route of the Chemung canal is along the line

of the abandoned Chemung canal from Montour Falls to Horseheads. From Horseheads to Elmira the valley of Newtown creek is followed to the Chemung river. From Elmira, the route of the canal would follow in general the line of the Chemung river, which would be canalized and equipped with the necessary dams and locks similar to those installed along the canalized Mohawk river. The combination of these sections constitutes the only available route from Seneca lake to the Pennsylvania state line west of Waverly.

Due to the topography of the country to the west of Waverly and near the Pennsylvania state line, it is practically impossible to keep the best route within the limits of New York state, and in order to utilize to the best advantage existing conditions it would be necessary for the canal to cross the state line and return to New York state at a point west of Waverly, the approximate length within the state of Pennsylvania being two miles. After the return to New York state the canal would follow the general line of the Chemung river to Waverly, covering a distance of approximately four miles. Attention is called to this condition, inasmuch as it is not considered proper to include in an estimate of the cost to the State of New York the improvement of any portion of the Chemung river lying in the state of Pennsylvania.

As a result of the study given to this proposed improvement, I am of the opinion that the following is the route which should ultimately be adopted: Beginning at the southern limits of what is known as Barge canal contract "I," in the village of Montour Falls, the route of the proposed waterway extends southerly and follows the valley of Catharine creek until the divide near the village of Horseheads is reached; thence it crosses this divide into the valley of Newtown creek; thence down the valley of Newtown creek to the Chemung river; thence down the valley of the Chemung river, cutting off such bends of the river as may be necessary, until the Pennsylvania state line is reached near Waverly.

Due to the steep valley of Catharine creek, it will be necessary to construct fifteen locks within the short distance of approximately five miles, and it will also be necessary to provide proper storage reservoirs in the Chemung valley for the purpose of

storing waters sufficient to ensure the proper operation of the canal.

The estimated cost of constructing a canal of Barge canal dimensions along the route above outlined is \$25,250,000 for that part within the limits of the state of New York. This estimate does not include the cost of canalizing that portion of the Chemung canal lying within the state of Pennsylvania in the vicinity of Waverly, the improvement of which is estimated at \$1,250,000.

GLENS FALLS FEEDER PROJECT.

The Glens Falls feeder, which extends from a point on the Hudson river about a mile and a half above Glens Falls to an intersection with the summit level of the old Champlain canal near Hudson Falls, has served two purposes,—that of supplying water to the canal and that of furnishing a navigable channel from the canal to the village of Hudson Falls and the city of Glens Falls. This connection, however, cannot pass boats of more than 150 tons capacity. As a part of the Barge canal improvement certain work is being done along the feeder. This will insure the passage of sufficient water to supply the needs of the summit level of the new Champlain canal, but will not increase the dimensions of the channel to such an extent that larger boats can be used. The water supply for the new canal will pass through the entire length of the old feeder and then northerly through the old Champlain canal from its junction with the feeder to the vicinity of Dunhams Basin, where a new lateral channel will connect with the improved canal.

In making the survey called for by chapter 220, Laws of 1913, two general choices of route were possible, one in the bed of the Hudson river and the other along some course that would give a channel independent of the river, or a "land line," as it is called, in distinction from a "river line," or the canalization of a natural stream.

A river line would extend from the feeder dam, about one and one-half miles above Glens Falls, to a point below Fort Edward, where the river has been dredged in constructing the Champlain Barge canal, this point being on the second level below the summit of the new canal. This line was not surveyed, because of two

apparently serious objections. As practically the whole of the river bed is rock, it was considered that the cost of excavation would be excessive. Also, it seemed that a river location would damage existing power developments, since a given amount of water must be delivered through the old feeder to the summit level of the new Champlain canal, irrespective of the location of the proposed feeder canalization. Thus a river line would require a double supply of water and might so curtail the output of the mills, which are dependent on the power developed from the river, that the very object of the canal would be defeated by diminishing the commerce which it is designed to accommodate and which it should also foster and increase.

Beginning at the feeder dam, the survey of the land line followed the existing feeder to a point between locks Nos. 12 and 13, which is at the plant of the Kenyon Lumber Company in Hudson Falls. Leaving the feeder at this point, the route took a southerly course along the eastern limits of Hudson Falls and by a flight of locks reached the old Champlain canal just north of Fort Edward. Thence to a junction with the improved Champlain, or Barge canal, three lines were surveyed. The most feasible continued on the same southerly course, crossing the old Champlain canal and the Delaware and Hudson railroad, and reached the new Champlain canal about one-fourth mile below lock No. 8.

The route just described is considered the best for several reasons. First, it costs the least. Then, it is shorter than either of the others by nearly a mile and a half. Also, the alignment is best, both from the standpoint of the navigator and because it does not pass through the heart of the village of Fort Edward, as the other routes do. And furthermore, in the matter of water supply this route appears the most feasible and will divert but little from that intended for the summit level of the Champlain canal.

The estimated costs of constructing a waterway of Barge canal dimensions, including amounts for land damages, engineering and contingencies, along the several routes, are as follows:

Route No. 1: Estimated cost, \$9,000,000; length, 7.6 miles.

Route No. 2: Estimated cost, \$10,000,000; length, 8.9 miles.

Route No. 3: Estimated cost, \$10,000,000; length, 9.0 miles.

These estimates are for a canal which will extend through the city of Glens Falls to the feeder dam. Should it be deemed advisable to extend the canal only to Glens Falls, the cost of each line would be decreased by \$1,400,000 and the length by about one and one-half miles.

In considering the question of probable commerce, I desire to call your attention to two other pending projects that will materially affect conditions in this locality. It seems best to weigh the advisability of building this canal in connection with the consideration of one or both of these other projects.

Should the plan of constructing a storage reservoir on the upper Hudson be carried into execution, it is probable that the output of industries in this region would be greatly increased. Also, should the State adopt a policy for the Adirondack mountains similar to that of the Federal government toward the National forest preserves, which allows a certain amount of cutting in the work of reforestation, there would follow another form of industrial development in this section, together with its increased commerce. All of these three subjects are so closely interwoven that they should be considered as one great project.

In drawing any legislative bill to authorize this proposed improvement, the route should not be so definitely fixed as to preclude a location in the river channel or deviations in the land line, should further investigation show their advisability. This same precaution should be observed with regard to bills authorizing any of the canals mentioned in this report.

JAMAICA BAY-FLUSHING BAY PROJECT.

A canal from Jamaica bay to Flushing bay has been advocated for many years and an attempt was made in 1912 to pass a law authorizing its construction. At least one estimate of cost has been made previous to the survey authorized by chapter 220, Laws of 1913.

In a route across Long Island from Jamaica bay to Flushing bay, salt meadows are encountered for the first two miles, then a gently-sloping, sandy plain, varying in height from 20 to 40 feet above mean high tide and extending for another two miles, next a steeper, irregular slope to the backbone of the island, which is

composed of glacial drift and till and has a maximum elevation of over a hundred feet, then a steep descent and lastly a level stretch of salt meadow in a deep indentation of the main ridge, extending about three and one-half miles to Flushing bay.

In making the estimate of cost it was assumed that New York city will construct the proposed channel in Jamaica bay, together with the basins extending inland from that channel. The cost of the channel between deep water in the East river to Livingston street, the point where the pier and bulkhead lines proposed by the city end, has been estimated as a separate item, since it is expected that the Federal government will ultimately improve the channel to this point.

Several routes were considered and sufficient investigations made along each to determine the most feasible.

The route selected for estimate begins at the Cornell basin of the proposed Jamaica bay channel. It follows Cornell creek for a short distance, bending westerly across the ridge between the creek and the next valley to the west, crosses the Ridgewood aqueduct west of Three-mile Mill road and Rockaway boulevard about one-quarter of a mile west of the junction with Rockaway road, then follows the natural valley through the truck farms, crossing Hawtree creek road near its junction with Lincoln avenue and Liberty avenue just east of Van Wyck avenue. From Liberty avenue the line runs just east of Van Wyck avenue and nearly parallel to it, following a natural depression through the residential district to the railroad. It crosses the railroad just east of Dunton station, runs thence to the gravel pits on the Maple Grove cemetery property, crosses the summit of the main ridge in the cemetery, following a ravine on the easterly edge of the improved portion, across the Queens boulevard, and then down the ravine across the Union turnpike at the pumping station of the Citizens Water Company to the meadows at the head of Flushing creek. From the head of Flushing creek the line runs through the driven-well field of the water company to the head of the 200-foot channel planned by the city at Livingston street. Thence it follows the line of the improvement of the Flushing river proposed by the city of New York to Strong's causeway, thence across a bend of the river, rejoining the channel laid out

by the city above the Main street bridge of the Long Island Railroad Company and thence following the channel for which appropriations have been made by the Federal government to the point in Flushing bay where the depth is twelve feet at mean low water.

From tidal observations, it appeared that locks would be necessary to prevent a flow which would be destructive to the channel, and therefore a lock with double-acting gates has been planned at each end of the canal.

Three types of canal have been considered, as follows:

- (1) A sea-level, open-cut canal with two locks.
- (2) A high-level, open-cut canal with four or more locks.
- (3) A sea-level canal in a tunnel through the high portion of the island.

Estimates have been made for the first and third types, but, because investigation showed the cost of pumping to be enormous, further consideration of the second type was discontinued.

The first type, the sea-level, open-cut canal, would be the cheapest to construct and while it has many objectionable features, it has been made the basis of estimates on account of its comparative cheapness.

To avoid the deep open cut where it would disturb street plans and necessitate many bridges, a tunnel has been suggested by the authorities of the Borough of Queens. This would extend from Liberty avenue to Union avenue, and the tentative plans provide for a double conduit of reinforced concrete having channels of 50 feet each with columns between the channels, which, because of the comparatively large ratio of cross-section of canal to that of the boat, will permit a rapid and easy displacement of water by the moving boat. Such a channel would permit the meeting and passing of two boats of the largest size the Barge canal locks will accommodate. The cost would be considerably larger than by either of the open-cut schemes, but such a canal would probably meet with greater favor by both the borough authorities and the owners of the affected property.

The estimated costs of the two types of canal, including engineering, land damages and contingencies, are as follows:

Sea-level canal, Cornell basin to East river.....	\$13,211,042
If United States government makes channel from Livingston street to East river, deduct.....	618,468
	<hr/>
	\$12,592,574
Sea-level canal, as above, with tunnel from Liberty avenue to Union avenue.....	\$20,956,476
If United States government makes channel from Livingston street to East river, deduct.....	618,468
	<hr/>
	<u>\$20,338,008</u>

NEWTOWN CREEK-FLUSHING BAY PROJECT.

Schemes for a canal between Newtown creek and Flushing bay have been considered at various times during the past hundred years. The territory between Newtown creek and Flushing river shows a valley, that of Maspeth creek, extending inland from the west, and the marshes and valleys of Flushing river and its tributary Horse brook stretching from the east, the two valleys being separated by a ridge of glacial drift about three-quarters of a mile wide and from forty to fifty feet high.

Several routes for the proposed canal were considered and investigations carried far enough on each to determine the best. The one chosen for estimate follows Maspeth creek from Newtown creek to the old main line of the Long Island railroad, then crosses a high sandy ridge to Maurice avenue, the line of which it continues to follow in general direction, utilizing the valley of Maspeth creek above Newtown avenue and that of Horse brook beyond the glacial ridge. In this course it passes through the well-field of the Urban Water Company at Newtown avenue and crosses the Long Island railroad main line and the New York Connecting railroad just north of Maurice avenue. Beyond Grand street, Elmhurst, the route runs through Horse brook valley and marshes to a junction with the Jamaica Bay-Flushing Bay line just above Strong's causeway.

Only one type of canal was considered — a sea-level channel. Because of difference in time of tide at the two ends, as shown

by tidal observations, a lock was estimated for the west end of the canal, the lock which will serve for the other end having been included in the Jamaica Bay-Flushing Bay project.

The estimated cost of constructing this canal, including amounts for engineering, land damages and contingencies, is \$5,894,144.

SUMMARY.

A summary of cost of the five projects contained in the bill authorizing these surveys is as follows:

Extension of Black River canal.....	\$19,000,000
Reconstruction of Chemung canal (portion within New York state).....	25,250,000
Conversion of Glens Falls feeder into a canal....	9,000,000
Construction of canal between Flushing river and Jamaica bay	20,338,008
Construction of canal from Newtown creek to junction with proposed canal between Flushing and Jamaica bays	5,894,144
	<hr/>
	\$79,482,152
	<hr/>

It is to be noted that in this summary the portion of the Chemung canal lying in the state of Pennsylvania is not included. The estimate for this is \$1,250,000.

Also, the amount for the Jamaica Bay-Flushing Bay project is the estimate for the sea-level canal with a tunnel section. If the all open-cut type is desired, then \$12,592,574 should be substituted. Both of these figures are based on the assumption that the Federal government will construct the northern portion of this canal, which is estimated to cost \$618,468.

Respectfully submitted,

J. A. BENSEL,

State Engineer and Surveyor.

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